An Illinois Law Firm

Getting Down to Business

Heyl Royster
Business & Commercial Litigation Newsletter

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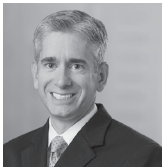
Welcome Letter

Dear Friends,

Welcome to the Spring 2016 edition of *Getting Down to Business*. As always, we hope to provide you with insight into legal issues relevant to you and your business.

In this edition, we offer our thoughts on several wide-ranging topics. First, Nate Bach writes on the balance between the Illinois' Compassionate Use of Medical Cannabis Pilot Program Act and the rights of employers to maintain a drug-free work environment. Next, Brett Mares explores the topic of restrictive covenants in employment. He explains the split within the courts as to how much consideration an employer must provide to allow for enforcement of non-compete and non-solicitation clauses in employment contracts. Mark Ludolph contributes valuable advice for dealing with customers in bankruptcy. Mark explains the danger in accepting payments from debtors within the 90-day period before they file for bankruptcy. Such "preference" payments can lead to a host of problems, including the possibility that the payments will need to be returned to the debtor's estate. Finally, Stacy Crabtree sheds light on how fundraising can cross the line into gambling under Illinois law. If you or your organization engages in fundraising efforts, Stacy's article is a must-read.

We invite you to look for news of our free educational seminars on topics of interest to the business community. Our firm's experience in protecting the rights of businesses, whether it be through drafting and enforcement of contracts, employment policy development and implementation, or litigation through trial, allows us to share advice in all aspects of business. If you have specific questions or suggestions for topics for future editions of *Getting Down to Business*, please let us know. We are here to help!



John Heil, Editor

Zero Tolerance: Predicting Employer Liability and Employee Rights Under the Illinois Compassionate Use of Medical Cannabis Pilot Program Act

By: Nathan Bach, nbach@heylroyster.com

The Illinois Compassionate Use of Medical Cannabis Pilot Program Act (Act), 410 ILCS 130/1 *et seq.,* presents a series of challenges for employers who want to maintain a drug free workplace. While Illinois courts have not yet addressed the issue of whether an employer may forbid medicinal use of cannabis, courts in other states have done so, and these decisions have generally sided with employers. Based on the language of the Illinois Act and the decisions of courts in other states, it appears likely that employers in Illinois may continue to maintain zero tolerance policies prohibiting the use of *all* illegal drugs, including medicinal cannabis, regardless of whether the employee uses the drugs at work or during nonworking hours. As explained in more detail below, employers can best protect themselves by updating their drug policies, properly disseminating them to employees, and enforcing them equally throughout the workforce.

Language of the Illinois Statute

The Act makes legal the possession of up to 2.5 ounces of cannabis for medicinal use by registered qualifying patients. A "qualifying patient" is defined as a person who has been diagnosed by a physician as having a debilitating medical condition.

Section 40(a)(1) of the Act prohibits employers, among others, from refusing to hire prospective employees based solely on that candidate's status as a registered qualifying patient unless doing so would put them in violation of federal law. It states:

continued on next page

> No school, employer, or landlord may refuse to enroll or lease to, or otherwise penalize, a person solely for his or her status as a registered qualifying patient or a registered designated caregiver. 410 ILCS 130/40(a).

The Act further provides that an employer is not required to employ a qualifying registered card holder if the employer faces potential monetary or licensing-related issues under federal law:

> unless failing to do so would put the school, employer, or landlord in violation of federal law or unless failing to do so would cause it to lose a monetary or licensing-related benefit under federal law or rules. This does not prevent a landlord from prohibiting the smoking of cannabis on the premises. *Id.*

Under Section 50 of the Act, an employer may adopt and enforce reasonable regulations regarding the consumption, storage and timekeeping requirements of an employee who is permitted to use medicinal cannabis. This section also expressly allows an employer to enforce a *zero tolerance policy*, *drug testing* and *a drug free workplace policy* provided that these policies are enforced in a nondiscriminatory manner.

Although the Act contains express language that can help to guide a weary employer through its regulations, it leaves a number of important questions unanswered. For example, if an employee fails a drug test but the employee is a qualifying registered card holder under Illinois law, may the employer terminate that employee? Some guidance can be found from examining how courts from other states where medicinal—and sometimes recreational—use of cannabis is legal under state law.

Court Decisions from Other States

One of the first decisions dealing with the intersection of a state medicinal cannabis law and employment arose out of the California case of *Ross v. RagingWire Telecommunications, Inc*., 42 Cal. 4th 920 (2008). *Ross* upheld an employer's right to refuse employment to an applicant who tested positive for marijuana which he was legally entitled to use.

The case was brought by a RagingWire job applicant, Gary Ross, who suffered from a lower back strain and muscle spasms as a result of injuries he sustained while serving in the military. After failing to obtain relief from pain through traditional medications, Ross began using cannabis on his physician's recommendation pursuant to the California Compassionate Use Act. Ross was offered a job expressly on the condition that he pass a drug test. When Ross tested positive for cannabis, the company withdrew its offer of employment. Ross sued the company, alleging RagingWire discharged him in violation of California's Fair Employment and Housing Act and also failed to make reasonable accommodations for his medicinal cannabis use.

In siding with the employer, the California court acknowledged an employer may be required to accommodate an employee's <u>*legal*</u> use of drugs, but this was not a legal use, as marijuana was (and still is) illegal under federal law. The court also relied on the fact that the Compassionate Use Act did not "eliminate marijuana's potential for abuse or the employer's legitimate interest in whether an employee uses the drug."

This decision was not unanimous, however, and the dissenting justices arguing the majority "disrespect[ed] the will of California voters who, when they enacted the Compassionate Use Act, surely never intended <u>that persons who availed</u> themselves of its provisions would thereby disqualify themselves from employment." *Ross*, 42 Cal. 4th at 934 (emphasis added). The dissent also complained that the majority's opinion "leaves many Californians with serious illnesses just two options: continue receiving the benefits of marijuana use … and become unemployed … or continue in their employment, discontinue marijuana treatment, and try to endure their chronic pain or other condition for which marijuana may provide the only relief." *Id.* at 936.

Similarly, in *Swaw v. Safeway, Inc.*, No. C15-939, 2015 U.S. Dist. LEXIS 159761 (W.D. Wash. Nov. 20, 2015), a federal court in Washington State held that an employee who was terminated for testing positive for cannabis after a workplace accident could not sue his employer, even though he was permitted under state law to use medicinal cannabis. The employer's policy banned controlled substances, including cannabis, and therefore the employee was in violation of the employer's policy. Similar to the language of the Illinois Act, Washington's medicinal cannabis statute <u>*permits employers to implement a drug free workplace, even if the employee's use of cannabis was offsite and not during work hours*</u>. Since the plaintiff agreed to adhere to that policy as a term of his employment, the employer was within its right to terminate him for violating the policy.

What if an employee uses medicinal cannabis to treat a disability as defined under the Americans With Disabilities Act, 42 U.S.C § 12101, *et seq*? Does terminating an employee

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for violation of a zero tolerance policy mean the employer has discriminated against that employee on the basis of a disability?

At least one case has addressed that issue and determined the answer to be in the negative. In *James v. City of Costa Mesa*, 700 F.3d 394 (9th Cir. 2012), the plaintiffs, severely disabled Costa Mesa, California residents and medicinal cannabis patients, sued the city for passing an ordinance that banned medicinal cannabis dispensaries within the city limits. The plaintiffs alleged that the ordinance violated Title II of the ADA. The Court of Appeals for the Ninth Circuit rejected the argument and affirmed the lower court's ruling, noting that because the ADA includes cannabis use under its illegal drug exclusion, medicinal cannabis use, even if it is permitted by state law and/or authorized by a medical professional, is not protected by Title II of the ADA.

One other disharmony arises from the interplay between the Act and the Right to Privacy in the Workplace Act which prohibits an employer from refusing to hire, discharging or otherwise penalizing an employee for use of lawful products during off hours. Since cannabis can be prescribed legally, it is a lawful product under *state* law; does it also have to be lawful under federal law? In Colorado, the answer is yes.

In *Coats v. Dish Network, LLC*, 2015 CO 44, the Colorado Supreme Court upheld the plaintiff's termination because he used cannabis in violation of his employer's drug policy even though cannabis is and was legal under state law. The plaintiff, a quadriplegic, was licensed to legally possess and consume medicinal cannabis. The plaintiff used cannabis only within the limits of his license and never on his employer's premises. He was never under the influence at work. The plaintiff relied on Colorado's employment privacy laws which were designed to keep an employee's lawful activities performed outside the workplace and during nonworking hours out of the employer's considerations.

Colorado's lawful activity statute is similar to Illinois's Right to Workplace Privacy Act; it prohibits an employer from taking negative action towards an employee for engaging in any lawful activity off the employer's premises during nonworking hours. Despite the plaintiff's argument that cannabis was legal under state law, the court found that because cannabis remained illegal under federal law it was not a "lawful activity" under Colorado's lawful activities statute.

Predicting Illinois Law

In Illinois, an employer may maintain a "zero tolerance" policy, implement drug testing, and maintain a drug free workplace. Both California and Washington courts relied on such employment policies to find that employers acted legally in terminating employees for failing workplace administered drug tests. These results may drive Illinois' decisions on this subject. Further, the similarity in language in the medicinal cannabis statute in Washington and the Act should be persuasive once our courts have a chance to confront this issue.

Additionally, as in California, because of the ADA's illegal drug exclusion, it is unlikely that an Illinois employee will possess a cause of action under the ADA.

Finally, the language of the Act, which allows an employer to mandate a zero tolerance policy and a drug free workplace, likely means that the use of "lawful products" under the Workplace Act will not shield an employee from termination or other penalty for violating such policies.

As more employees become registered qualifying patients, employers will be confronted with the reality of balancing workplace drug policies with an employee's right to consume legally prescribed substances. The most important considerations for employers in Illinois are to implement and maintain clearly-articulated and nondiscriminatory written workplace policies which address use of cannabis by employees and to enforce those policies in a consistent and uniform fashion. By implementing clear policies, disseminating them to employees, and enforcing them equally, employers can best protect themselves from potential liability.

Nathan Bach concentrates his practice in the area of civil litigation, including business and commercial litigation, tort litigation, professional liability and commercial motor carrier litigation. Prior to joining Heyl Royster, Nate worked as a law clerk for the Honorable James E. Shadid, Chief United States District Judge for the Central District of Illinois. As a law clerk, he researched legal and procedural issues and assisted in drafting numerous orders and opinions.

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Consideration and Non-Compete Agreements: The State of the Law

By Brett Mares, bmares@heylroyster.com

For those who find themselves embroiled in disputes involving non-compete and non-solicitation clauses, cases are often decided on the fundamentals of contract law. Any valid and enforceable contract requires three things. First, there must be an offer manifesting an intent to enter into a contract. Second, that offer must be accepted. Third, the element of consideration requires the parties to incur a detriment—to either do something they are not legally obligated to do or to refrain from doing something they otherwise could.

It is this third element of a contract that is often glossed over by businesses, lawyers, and sometimes even judges. In most contract disputes, Illinois courts do not inquire as to the adequacy of consideration, confirming only that some consideration exists and ending the examination there. But in non-compete cases, consideration can take center stage. Though this area of law is unsettled in Illinois, some measure of predictability as to how a court will assess consideration can be gained by looking at recent key decisions.

Fifield v. Premier Dealer Servs., 2013 IL App (1st) 120327, a 2013 case out of the Illinois First District Court of Appeals, pops up in numerous subsequent court decisions, and therefore warrants a close look. In it, an employee signed a contract preventing him from soliciting any of his employer's customers or competing with his employer for business for a period of two years following his departure from the company, provided that his departure was not due to his own resignation. Three months later he resigned and went to work for a competitor. He and his new employer argued that the non-solicitation and non-competition provisions were unenforceable because there was not adequate consideration.

The court agreed. Noting that "[p]ost-employment restrictive covenants are carefully scrutinized by Illinois courts because they operate as partial restrictions on trade," *Fifield*, 2013 IL App (1st) 120327, ¶13, the court felt that it had to determine "whether the restrictive covenant is supported by adequate consideration." *Id*. While continued employment could constitute adequate consideration, the court was weary of situations in which continued employment could be illusory, specifically under conditions of at-will employment. If an employer could dismiss an employee at any time without cause, what was to stop them from forcing an employee to sign a post-employment restrictive covenant and then dismissing the employee shortly thereafter? To prevent this, "continued employment for a substantial period of time beyond the threat of discharge is sufficient to support a restrictive covenant in an employment agreement." *Id*. ¶14. The First District even put a two year time frame on this. "This rule is maintained even if the employee resigns on his own instead of being terminated." *Id*. ¶19.

Fifield was not, as it turns out, the last word in sufficiency of consideration. The next year the Illinois Third District Appellate Court took up the issue in *Prairie Rheumatology Associates, S.C. v. Francis,* 2014 IL App (3d) 140338. There, a doctor resigned from a medical practice after nineteen months of employment, and her employer argued that the consideration she received was not solely limited to continued employment and, therefore, the two year requirement would not apply. The third district examined the alleged consideration before finding that the practice's assistance in obtaining a hospital membership and staff privileges; access to referral sources; and opportunities for expedited advancement fell short of the mark. "Here Dr. Francis received little or no additional benefit from [the medical practice] in exchange for her agreement not to compete." *Prairie Rheumatology,* 2014 IL App (3d) 140338, ¶ 18. Therefore, the restrictive covenant was held to be unenforceable.

The First District Court of Appeals has since revisited the adequacy of consideration, building on the third district's decision in *Prairie Rheumatology*. Though *Fifield* used a two year benchmark, it "did not abolish a fact-specific approach to determining adequacy of consideration," and "other additional consideration can lessen that two-year continued employment requirement," the court wrote in *McInnis v. OAG Motorcycle Ventures, Inc.* 2015 IL App (1st) 142644, ¶¶ 25, 35. Like *Prairie Rheumatology*, however, the court in *McInnis* examined the employee's re-hiring to determine if it was sufficient additional consideration. Again, this was found to be lacking. The court also refused to make any distinction between a resignation and a termination for purposes of the adequacy of consideration.

Federal courts located in Illinois have attempted to pin down Illinois law, as well. In 2015, the United States District Court for the Northern District of Illinois twice considered the sufficiency of consideration in regard to post-employment covenants. In *Montel Aetnastak, Inc. v. Miessen*, the court lamented Illinois' lack of "a clear rule to apply in this instance," "contradictory holdings of the lower Illinois courts[,] and the lack of a clear direction from the Illinois Supreme Court…."

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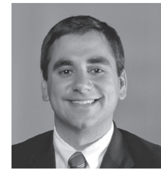
998 F. Supp. 2d 694, 716 (N.D. Ill. 2014). Because "Illinois courts have unequivocally stated their refusal to 'limit[] the courts' review to a numerical formula for determining what constitutes [the requisite] substantial continued employment[,]" *Montel Aetnastak,* 998 F. Supp. 2d at 716, it declined to apply a bright line rule. Turning instead to a fact-specific analysis, the court in *Montel Aetnastak* held that the employee's fifteen months of employment, coupled with her voluntary resignation, provided adequate consideration.

Less than four months after *Montel Aetnastak*, a Northern District judge predicted that the Illinois Supreme Court "would not alter the doctrine established by the recent Illinois appellate opinions, which clearly define a 'substantial period' as two years or more of continued employment." *Instant Technology, LLC v. Defazio*, 40 F. Supp. 3d 989, 1010 (N.D. Ill. 2014). The court went on to make its decision based strictly on the duration of employment. Shortly thereafter, the District Court for the Northern District of Illinois again revisited this topic in *Bankers Life & Cas. Co. v. Miller*., No. 14 CV 3165, 2015 U.S. Dist. LEXIS 14337 (N.D. Ill. Feb. 6, 2015). "[T]he Illinois Supreme Court cautioned against creating bright-line rules that turn sufficient facts into necessary ones," *Miller*., 2015 U.S. Dist. LEXIS 14337 at *10, the court wrote, rejecting the numerical analysis espoused by *Fifield* and *Defazio* in favor of a fact-based analysis.

The United States District Court for the Central District of Illinois has also added its voice to this debate. Last year the court wrote that it "does not believe that the Illinois Supreme Court would adopt the bright-line test announced in *Fifield*. Such a rule is overprotective of employees, and risks making post-employment restrictive covenants illusory for employers" because the employee would be free to resign at his or her pleasure. *Cumulus Radio Corp. v. Olson*, 80 F. Supp. 3d 900, 906 (C.D. Ill. 2015). The Central District opted instead for a "case-by-case, fact-specific determination" in order to "ensure that employees and employers alike are protected from the risks inherent in basing consideration on something as potentially fleeting as at-will employment." *Cumulus Radio*, 80 F. Supp. 3d at 906. Among the concerns cited by the court was the bright-line approach's failure to give weight to whether the employee resigned or was terminated.

So where do these inconsistent Illinois decisions leave us? In light of the unsettled nature of this issue, caution is appropriate. Employers should very specifically set out what they have provided to the employee, beyond continued employment, in exchange for the agreement to not compete. They should also refrain from overreaching as to the duration and geographic scope of the non-compete agreement. Courts are generally quick to strike down inhibitions on one's ability to work, so non-compete clauses must be tailored as narrowly as possible in order to achieve the employer's legitimate goals.



Brett Mares focuses his practice on commercial litigation, with an emphasis on contractual disputes. Brett also defends clients facing product liability lawsuits. In addition to his robust motion practice, Brett has defended clients' interests at countless depositions. He writes and speaks on topics of concern to business owners, including commercial contracts, the Employee Retirement Income Security Act, and employment agreements. Brett's practice includes the representation of multi-national corporations as well as local businesses.

Seven Things Business Owners Need To Know About Bankruptcy Preferences

By: Mark Ludolph, mludolph@heylroyster.com

Most business owners have experienced the frustration of a customer filing for bankruptcy, leaving a substantial unpaid balance. In some cases, you file your proof of claim with the bankruptcy court and await the resolution to determine what, if any, distribution (usually pennies on the dollar) you might receive. Unfortunately, things can go from bad to worse if you receive a letter from a bankruptcy trustee stating that the customer (Debtor) made preferential payments to you (Creditor) in the 90 days preceding the bankruptcy and is demanding that you return all of these funds. Here are the seven things you need to know about preference claims in order to determine how to respond.

1. What is a preference?

At the risk of oversimplifying, preferential payments include payments to a Creditor on antecedent debts (amounts owed prior to the payment), made while the Debtor was insolvent to a creditor within 90 days of the bankruptcy filing date[1] which would allow the Creditor to receive more than they would have received had the claim been paid through the bankruptcy, and therefore more than received by similarly situated creditors.

2. What defenses are available?

While all such payments are presumed preferential, Creditors do have a number of defenses to these claims that may allow a Creditor to keep some or all of the alleged preferential payments. The most common defenses available are:

- That the payment was a contemporaneous exchange;
- That the payments were made in the ordinary course of business; and
- That new value was provided to the Debtor after the preferential payments were made.

These defenses are affirmative defenses upon which the Creditor has the burden of proof. Each is discussed in more detail below.

3. What is a "contemporaneous exchange"?

A Creditor can establish the "contemporaneous exchange" defense by demonstrating that it provided new goods and/or services at or near the time the payment was made and that the payment was equal to the value of the goods and/or services. The most common examples would be a COD (cash on delivery) order, or a payment made prior to delivery.

4. What constitutes the "ordinary course of business"?

A payment made in the ordinary course of business is one that was made under terms and conditions and within a period of time consistent with the prior dealings between the Debtor and Creditor. If the consistent practice was that invoices were issued and payments were made within 30 days prior to the preference period and the parties continued to operate in this fashion during the preference period, such transactions would typically be considered as made in the ordinary course of business. It might even be possible to establish that payments which would otherwise be considered late payments were made in the ordinary course of business. If the payment or account history demonstrates that payments due within 30 days were consistently paid at 60 days, a Creditor could use this history to attempt to establish that such payments were made in the "ordinary course" of business between the parties.

5. What is "new value"?

If the Creditor supplied additional goods and/or services after one or more of the preferential payments, the Creditor can set off this new value against the amount of the preference claim on a dollar-for-dollar basis. For instance, if an allegedly preferential payment was made on June 1st and the Creditor supplied additional goods or services on June 15th, the value of these goods or services can be used to reduce the amount owed on the preference claim.

6. What do I do when I receive a notice of a preference claim?

Trustees often send out a demand letter providing notice of a preference claim prior to filing suit to recover. This allows the Trustee and the Creditor to attempt to reach a resolution without resorting to litigation. The Trustee may be facing deadlines for filing Complaints to pursue preference actions. As such there is often a time limit on responding to the Trustee's demand. Therefore, when you receive a demand from the Trustee, you will want to contact counsel as soon as practicable so counsel can advise you on what defenses may be applicable to your situation in order to respond to the Trustee. You will also want to pull your account history with the Debtor in order to determine what facts might support your defenses to the preference claim.

7. Will I have to give the money back?

The good news is that if any of these defenses are applicable, you or your counsel may be able to negotiate away some, or all, of the preference claim. The bad news is that if there was a preferential payment and no defenses are applicable, you will be required to return the payment(s). Even in such cases, a Trustee may be willing to negotiate a lower figure in order to avoid the uncertainty associated with litigation.

Preferences are a specialized area of law and the resolution of such claims often turns on the specific facts of a given cases. It is important to confer with counsel to assure that your rights are properly protected.

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[1] For the purposes of this article, we are focusing on non-insider Creditors. The look back period for insiders is one year, but there is no presumption the Debtor was insolvent at the time of the payment.

Mark Ludolph is the Chair of the firm's Creditors' Rights and Bankruptcy Practice and Co-chair of the Business and Commercial Litigation Practice. Mark represents commercial lenders, financial institutions and other creditors in enforcing secured and unsecured claims in the state and federal courts.

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Raffles: The Difference between Fundraising and Gambling in Illinois

By: Stacy Crabtree, scrabtree@heylroyster.com

Raffles are often used by organizations for fundraising purposes. However, Illinois law suggests that unless the raffle is licensed and operated in accordance with the Raffles and Poker Runs Act, 230 ILCS § 15/0.01 *et seq.*, (Raffles Act) and applicable local laws, raffles are illegal gambling subject to criminal fines and penalties. Below are five key considerations organizations need to understand to lawfully benefit from such fundraising efforts.

First, the Raffles Act requires an organization interested in holding a raffle to obtain a license from the local governing body, i.e. the municipality or county in which the organization desires to hold the raffle. 230 ILCS § § 15/2(a) & 3(1). Notably, local governing bodies are not required to allow raffles and, as a result, it may not be possible to obtain a raffle license in every location throughout the state. Each local governing body that offers raffle licenses must pass its own local laws permitting raffles and provide a license application for interested organizations. *Id.* at § 15/2(a). Although similar in some aspects, these local laws and applications differ from city to city and county to county, so it is important that an organization review the applicable local laws to understand licensing requirements.

Second, raffle licenses can only be issued to select nonprofit organizations. Specifically, the organizations must be "bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members" and have been in existence for at least five years. 230 ILCS § 15/2(b). Nonprofits less than five years old cannot hold a raffle license nor can a for-profit organization, even if the proceeds are then donated to a nonprofit. The only other organizations eligible for a raffle license are non-profit fundraising organizations that are "organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster." *Id.* Further, raffle licenses cannot be issued to organizations that employ or otherwise have as an officer or director someone who has been convicted of a felony, has been a professional gambler or gambling promoter, or is not of good moral character. *Id.* at §§ 15/3(5)(d) & (e). Raffle license applications may require a sworn statement from the organization testifying to the same.

Third, the actual operation of the raffle is subject to additional restrictions and requirements. Notably, local governing bodies are required within their ordinances to limit the amount that may be charged for a raffle ticket and the value of prizes to be awarded in a raffle. 230 ILCS § 15/2(a). For example, the Village of Morton's ordinance provides that raffle ticket prices cannot exceed $100 per ticket, and the total retail value of all prizes awarded in a raffle shall not exceed $40,000. Morton Municipal Code 3-3-15 & 16. Also of note, only bona fide members of the licensed organization may participate in the management or operation of the raffle and raffle tickets may only be sold within the area specified on a raffle license. 230 ILCS § 15/4(a)(5). Therefore, it is important that those who are selling raffle tickets are informed of the limited geographic area in which ticket sales are permitted.

Fourth, the proceeds from any raffle must go solely to the organization licensed to hold such raffle. 230 ILCS § 15/4(a)(1). As a result, nonprofit organizations should be wary of any request to share or split the proceeds from a raffle unless the organization with which it is sharing is also licensed to hold the same raffle.

Fifth, obligations continue after the raffle. Organizations licensed to hold a raffle must keep records of and report to the local governing body the gross receipts, expenses, and net proceeds from the raffle and how the proceeds were distributed. 230 ILCS § 15/6. The Raffles Act requires the licensed organization to maintain these records for three years. *Id.* § 15/6(d).

Despite the rules and restrictions, raffles should be and often are enticing to nonprofits in need of operating or program funds. To keep a raffle from becoming a legal liability, though, be sure to review the Raffles Act and applicable local laws.

Stacy Crabtree represents clients in commercial and contract law, as well as tort litigation. Her clients include businesses large and small, and she regularly works onsite with a Fortune 50 manufacturing company assisting with vendor agreements, open-source software and freeware licenses, and compliance issues.

Heyl, Royster, Voelker & Allen
300 Hamilton Boulevard
PO Box 6199
Peoria, IL 61601-6199

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For More Information

If you have questions about this newsletter, please contact:

Timothy L. Bertschy
Heyl, Royster, Voelker & Allen
300 Hamilton Boulevard
PO Box 6199
Peoria, IL 61601-6199
Phone (309) 676-0400 – Fax: (309) 676-3374
E-mail: tbertschy@heylroyster.com

Peoria, Illinois 61601-6199
300 Hamilton Boulevard
PO Box 6199
Peoria, IL 61601-6199
Phone (309) 676-0400 – Fax (309) 676-3374

Springfield, Illinois 62711
3731 Wabash Ave.
P.O. Box 9678
Phone (217) 522-8822 – Fax (217) 523-3902

Urbana, Illinois 61803-0129
Suite 300, 102 East Main Street
P.O. Box 129
Phone (217) 344-0060 – Fax (217) 344-9295

Rockford, Illinois 61105-1288
PNC Bank Building, Second Floor
120 West State Street
P.O. Box 1288
Phone (815) 963-4454 – Fax (815) 963-0399

Edwardsville, Illinois 62025-0467
Suite 100, Mark Twain Plaza III
105 West Vandalia Street
P.O. Box 467
Phone (618) 656-4646 – Fax (618) 656-7940

Chicago, Illinois 60603
33 N. Dearborn Street
Seventh Floor
Chicago, IL 60602
Phone (312) 853-8700

www.heylroyster.com

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