



Hindman Sanchez

CHECKLIST FOR LIMITING MANAGER LIABILITY INSURANCE

- Obtain Professional Liability Insurance (errors and omissions insurance)
- Obtain a Business Owners Policy (BOP)
- Obtain Commercial General Liability (CGL) Insurance
- Become (if possible) a named or additional insured on Association's Directors and Officers Liability Insurance
- Become a named or additional insured on Association's CGL Insurance
- Obtain Fidelity Insurance

MANAGEMENT AGREEMENT

- Clearly establish the relationship - independent contractor, agent, employee, etc.
- Clearly define responsibilities and scope of duties
- Require notice of breach and opportunity to "cure" before Association can terminate
- Require some form of ADR to resolve dispute
- Limit time for Association to bring suit for negligence or breach of any duty
- Require Association to allow manager access to records of Association in event of a claim
- Clearly define what Manager is not responsible for
- Terms of Agreement should be consistent with any limitations in Association's governing documents
- Clearly define who Manager is to take direction from
- Provide for at least a yearly evaluation from Board

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- Provide for a mechanism that permits communication directly with Membership if deemed appropriate by Manager
- Include an indemnification clause with a provision for attorney fees
- Include a hold harmless provision which includes attorney fees
- Include a covenant not to sue
- Include non-waiver and entire Agreement clauses
- Clarify management company responsibilities upon termination
- Clarify ownership of records
- Include a survival clause for warranties, indemnifications, etc.

MANAGEMENT PRACTICES

- Document in writing all disagreements with Association
- Document in writing all action taken by Association against your advice
- Maintain complete and detailed log of all telephone calls received
- Avoid entering into contracts on behalf of Association
- Avoid all conflicts of interest and disclose and document those you can't avoid
- Encourage Association to get a yearly audit
- Do not commingle one Association's funds with another Association's funds
- Encourage Association to develop a long-term replacement reserve program
- Provide timely and accurate financial information to Association
- Encourage Association to develop an investment policy
- Know your limits; know when something is outside of your expertise
- Do not hold yourself out as an expert in areas you are not
- Do not perform services outside of the scope of the Management Agreement
- Be familiar with Association's governing documents and state statutes
- Obtain more education and training.