

HOWE & HUTTON, LTD.

20 NORTH WACKER DRIVE
SUITE 4200
CHICAGO, ILLINOIS 60606-3191
TELEPHONE (312) 263-3001
FAX (312) 372-6685
www.howehutton.com

jth@howehutton.com

WASHINGTON, DC OFFICE:
1901 PENNSYLVANIA AVENUE, N.W.
SUITE 1007
WASHINGTON, DC 20006
TELEPHONE (202) 466-7252
FAX (202) 466-5829

JONATHAN T. HOWE

CLIENT MEMORANDUM

TO: SFIA

FROM: Jonathan T. Howe, SFIA General Counsel

RE: Guidelines for Meetings

DATE: March 9, 2016

INTRODUCTION

The Sports and Fitness Industry Association (“SFIA”). Each member of the Council is first a member of SFIA. SFIA has a long tradition of providing guidance and assistance to the industry. In no small part this is facilitated by volunteers participating in meetings sponsored by the Association. VBC as part of SFIA is subject to these guidelines for meetings.

To aid meeting participants these guidelines are provided for the conduct of and participation in SFIA sponsored meetings. There are designed to remind participants of legal requirements and areas which are appropriate for discussion and to provide assistance in understanding your rights and obligations as a meeting participant.

Awareness of the limitations of the antitrust laws and strict compliance with them is most important. These requirements are strictly enforced to protect all concerned from possible adverse legal consequences.

MEETING CONDUCT GUIDELINES

Individual member companies recognize the importance of membership in the Sports and Fitness Industry Association (“SFIA”) Through association strength and cooperative efforts, individual member companies can work together with trust and confidence. Association work requires that members’ representatives be able to share their thoughts and know that their colleagues are going to respect the process by keeping discussions, drafts, differences of opinion, and work product private and confidential. When discussions are taken outside of SFIA to other associations or agencies, confidence and trust are jeopardized. The free flow of thoughts is threatened and participation declines. The inherent value of SFIA as an association is as a result compromised.

Officers, directors, chairpersons and all other volunteers who serve SFIA in positions of responsibility -- on task forces, committees, divisions, or elsewhere -- have certain legal obligations to the association. Volunteers have a fiduciary duty. They also have to avoid conflicts of interest and must maintain the confidentiality of SFIA association information. The obligations of the volunteers are to SFIA as an organization, not to the volunteers’ individual member employers.

Fiduciary Duty

Volunteers have a fiduciary duty and obligation to SFIA. It requires the exercise of reasonable care, whether participating in SFIA activities, making statements or otherwise. One’s fiduciary duty includes the responsibilities of honesty, good faith, care and loyalty. In plain English, that means the volunteer must look out for SFIA’s best interests, not the individual’s best interests or those of the individual’s member company.

Conflicts of Interest

SFIA’s volunteers must assume the obligation of avoiding actual conflicts of interest or circumstances that could create the appearance of such a conflict. A conflict of interest can exist when an individual representing a member company participates in the decision-making process on an association issue while having, at the same time, other professional or personal business that could bias the person on that issue. When acting on SFIA’s behalf, the volunteer must advocate for SFIA’s interests, not those of the member company if those interests are in conflict.

If the volunteer cannot do that, the individual has the responsibility to notify SFIA of the conflict before participating in any discussions and take whatever action is necessary in cooperation with the association. Possibilities range from simple disclosure of the potential conflict to abstention from voting to actual resignation from the SFIA board or committee.

Confidential Information

Associations have the justifiable right to maintain information as confidential. Accordingly, it is essential that volunteers maintain in confidence whatever information SFIA decides to keep and treat as confidential.

An association ordinarily requires a high degree of openness to stimulate development, to preserve the goodwill of members and to function effectively. Individuals are not allowed to ignore or overrule SFIA's determination to designate and handle information as confidential. The responsibility to preserve confidentiality continues indefinitely. The volunteer is not relieved of the obligation when the volunteer's position is over. Some additional examples of confidential information are:

- Information shared in executive session, such as a board or committee. Even if the information is not obviously marked as confidential or otherwise identified as such, it may be obviously confidential because of association discussions and actions. If the volunteer knows, or should know the confidential nature of the information, the volunteer has the responsibility to maintain that confidentiality.
- Trade secrets or confidential commercial information produced through the business endeavors of SFIA and shared with the association by outside businesses and consultants.
- Advice, evaluations and analysis received from outside or inside association legal counsel under the attorney-client privilege.
- Industry or field statistics.

Ownership/Work Produce

Unless otherwise specifically acknowledged in writing, the work product of any SFIA sponsored meeting or activity is owned by SFIA. SFIA will exercise reasonable care to assure that as appropriate that work product will be available to the industry. By participation in committee activities, members acknowledge SFIA does have all ownership rights to the work product and outcomes of such activities. By participation, committee members also agree to assist SFIA in its needs to protect and assure SFIA's rights in the work product.

ANTITRUST LEGAL GUIDELINES

The members of the Sports and Fitness Industry Association ("SFIA") compete in various parts of the sporting goods industry. U.S. antitrust laws at the federal and state levels promote competition and prohibit unlawful restraint of trade. These laws are vigorously enforced to keep companies from engaging in anti-competitive practices. Any discussions among competitors of prices, terms and conditions of sale, sales warranties, allocation of markets or customers, joint refusals to deal, or production costs and plans could be interpreted as signaling or tacit agreement leading to illegal collusion. This is serious criminal conduct that could result in substantial fines and jail sentences, as well as treble damages in civil lawsuits.

SFIA strictly adheres to the antitrust laws. Each member and company representative bears a serious responsibility at all times to comply with the laws, both at formal meetings and in informal discussions. Think *before* you speak (or write); always consider how your remarks could be interpreted, in and out of context. Avoid creating or participating in any situation which could be misinterpreted as noncompliance. And finally, consult legal counsel whenever any uncertainty arises.

VBC shall also have protocols which will govern specific activities of the Council and as may otherwise be adopted.

GENERAL GUIDELINES FOR ALL ASSOCIATION ACTIVITIES

- Neither SFIA nor any of its committees or activities shall be used for the purpose of bringing about, or attempting to bring about any understanding or agreement among the members with

regard to prices, terms or conditions of sale, territories, customers, suppliers or other aspects of competition.

- No SFIA activity or communication shall include any discussion of pricing methods, terms or conditions of sale, allocation of territories or customers, joint refusals to deal with suppliers or customers, or other aspects of competition. Individual members' future sales plans will not be revealed nor should they be discussed.
- No SFIA activity or communication shall include any discussion that might be construed as an attempt to:
 - prevent any business entity from gaining access to any market or customer for its services, or
 - prevent any business entity from obtaining services freely in the market through competition.
- No SFIA activity or communication shall include any discussion that might be construed as an agreement or understanding to refrain from purchasing any materials, equipment, services, or other supplies from any supplier.
- All SFIA meetings shall be conducted in accordance with an agenda, and minutes shall be kept.
- All SFIA members are expected to observe the foregoing rules both at formal meetings and in informal discussions, whether in conjunction with SFIA meetings or otherwise.

DO'S AND DON'TS

The following simple rules are applicable to all SFIA association activities:

- Do put SFIA's and VBC's interests first when working on Association and Council activities. Watch for the possible opportunities as well as the risk and notify association staff when appropriate.

- Be alert to possible conflicts of interest or the appearance of such a conflict. Immediately notify association staff of any actual or potential conflict so that appropriate action may be taken before engaging in any deliberations or decisions on issues involving a possible conflict.
- Diligently preserve the confidentiality of all information that comes into the volunteer's possession and that is marked or treated as confidential information. Don't share confidential information with unauthorized persons or entities. Furthermore, don't discuss confidential information with authorized persons in unauthorized places, such as bars, restaurants, hotel lobbies, golf courses, etc.
- Don't disclose legal information that comes to SFIA/VBC from inside or outside legal counsel.
- Be aware that all members are expected to observe the foregoing rules concerning fiduciary duty, conflicts of interest, and confidentiality, both at formal meetings and informal discussions.
- Review and fully understand and comply with the antitrust guidelines made a part of the memorandum.

CONCLUSION

If you have any questions or concerns, please contact SFIA staff or me.

JTH