LEGAL GUIDANCE FOR PLANNERS OF ACS-SUPPORTED EVENTS

THE IMPACT OF THE COVID-19 PANDEMIC

With the ACS’s official termination of its 2020 Spring National Meeting & Exposition in Philadelphia, ACS has accumulated some real-time experience in dealing with the resolution and/or settlement of contract matters. This Guidance is meant to assist Divisions, Local Sections and others planning ACS-supported events in dealing with such matters.

GENERALLY

1. Collect Needed Materials & Identify Relevant Clauses
   - Retrieve, read, and acquaint yourself with contracts with venues, hotels, restaurants, and other support vendors. Identify the signatories to those agreements and the contact person to whom notice must be sent. These may not necessarily be the one in the same person.
   - Find and understand the following provisions:
     1. Cancellation or Termination or Force Majeure, if separate
     2. Notice - note the contact information of the person identified
     3. Liquidated Damages - or language suggesting amounts due when cancellation or termination is sought without proper excuse or the application of Force Majeure
     4. Dispute Resolution or Venue, Jurisdiction, and Applicable Law

2. Develop a Legal Strategy
   - Develop a strategy for resolving or settling the matter that considers the relationship of the parties, the prospects for future transactions, past experience with the other party, and projected budget for settling alleged claims. Here are some strategies:
     1. Cancellation or Termination of the meeting
     2. Reschedule the meeting to a future date
     3. Hold the meeting & suffer attrition
     4. Declare Force Majeure – cite a condition beyond the reasonable control of the parties which makes holding the meeting either illegal, impossible, commercially impractical, impractical and/or inadvisable (e.g., COVID-19)
   - Identify and use legal counsel to assist you in strategizing and/or resolving relatively large contract obligations that warn of a substantial likelihood of litigation.
3. How ACS Can Help

- ACS’s core value of safety has guided our actions in responding to the challenges presented by the Coronavirus. Consider ACS’s stance when making event-related decisions.

- ACS’s Department of Meetings & Exposition Services (“DMES”) is available for Regional Meeting assistance through a DMES Meeting Management Agreement that provides for services such as negotiating for vendor meeting support services on behalf of the event planner and/or collecting revenues from registrations and exhibitors.

- ACS can advise ACS-supported event planners on issues or concerns that may result in undue financial loss, erosion in the quality or prestige of the meeting, and/or present a substantial departure from the core programming or planning for the event.

- ACS is unable to: a) decide for event planners on whether a meeting should be held, cancelled, terminated, delayed, or rescheduled, b) oblige its resources on behalf of the event planner for any meeting support services, and/or c) provide legal advice as to any one or more decisions described above.

PARTICULAR GUIDANCE

1. Notice Provisions: In every contract, determine the circumstances under which Notice to the other party is required to invoke cancellation or termination provisions of the Agreement. This is very important to the potential for liquidated damages or cancellation fees. Be sure to document when Notices must be mailed and use a contract carrier and email with confirmation of receipt as the means to deliver the Notice.

2. Hotels: Provide Notice as soon as possible. Review the contract for provisions that lessen or eliminate entirely the responsibility of the Division or Local Section under extraordinary circumstances, i.e., acts of Force Majeure – Act of God, War or language suggesting that a condition has arisen that is beyond the control of either party and renders holding the meeting illegal, inadvisable, or impractical. Contracts will vary considerably, but the above language is an example. If your contract contains language like the above, you may have an opportunity to avoid liability. Seek legal counsel immediately.

3. Vendors: Provide Notice as soon as possible. Generally, vendors are eager to discuss resolution, especially when a deposit is involved. Considering the General Guidance No. 2, decide how you would like to best resolve their account. In many cases, vendors are typically eager to roll over deposits towards future services so as to maintain their cash flow.

4. Exhibitors/Sponsors: Provide Notice as soon as possible. Generally, you have more control over cancelling and/or terminating the meeting with this group of contract parties. Decide upon whether you’d like to offer options for resolving the cancellation or termination via a roll-over to the next meeting or partial/full refund of their deposits.

5. Restaurants: Provide Notice as soon as possible. Restaurants have been cooperating generally in the return of deposits, although the contract might require otherwise.