We The People Unified

Freedom Association

Leading the way in Private Association development

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Private Associations Synopsis

You can legally practice your profession in a properly formed First, Fourth, Fifth, Ninth, Tenth and Fourteenth Amendment Private Membership Association.

This means that your association business, and its members remain in the private domain and remain outside the jurisdiction of public law and authority of all state and federal agencies and law enforcement authorities. This right is not absolute, but your association would have to be operating in the realm of a clear and present danger of substantive evil in order to trigger even an investigation.

In other words, there should be no concern of being subject to an injunction or criminal charges of practicing medicine, or law, or any other field without a license by law enforcement when practicing your profession within a Private Health, Private Membership, or any other Private Association with only private members, not public patients or clients. Your relationship with your members is a private contractual relationship and according to long settled case law, the State CANNOT impair your right to contract. Your right to contract is unlimited.

In order to understand why a Private Association should work for you, a couple of legal principles need to be understood.

First, an understanding of the difference between a mala in se crime and a mala prohibita crime is important. A mala in se crime is a “crime or evil in itself,” e.g. murder, rape, bank robbery, etc. even under common-law. A mala prohibita crime is not a “crime in itself” but is only a crime because a state legislature or federal congress makes it a crime for the public welfare.

For example, the federal government or a state may decide to license a certain profession that was legal to do before licensing. After the licensing statute, a person who conducts that profession without a license could be charged with a felony criminal offense for practicing without a license.

In the public domain, a person who advises another that his legal rights have been infringed and refers him to a particular attorney has committed a mala prohibita felony crime in the State of Virginia.

But in the private domain of a First Amendment legal membership association, the state, "...in the domain of these indispensable liberties, whether of... association, the decisions of this Court recognize that abridgment of such rights (occurred)." N.A.A.C.P. v. Button, 371 U.S. 415 at 421. The "modes of ...

association protected by the First and Fourteenth (are modes) which Virginia may not prohibit. N.A.A.C.P. v. Button, at 415.

In other words, a private mode or domain is protected and is a different domain than a public domain. What was a mala prohibita felony criminal act in the public domain became a legally protected act in the private domain or private association. A mala in se crime is not legally protected in the private domain or private association.

This means that you can practice almost anything without a license within your properly formed Private Membership Association of private members!!!

The only exception is if your association practices, proposes or promotes a clear and present danger of substantive evil.

Also, the private domain is referred to as a "sanctuary from unjustified interference by the State" in Pierce v. Society of Sisters, 268 U.S. 510 at 534-535. And as a "constitutional shelter" in Roberts v. United States, 82 L.Ed.2d 462 at 472. And again as a "shield" in Roberts v. United States, supra at 474.

In addition, the U.S. Supreme Court in Thomas v. Collins, 323 U.S. 516 at 531, specifically refers to the "Domains set apart...for free assembly." The First Amendment right to association creates a "preserve" Baird v. Arizona, 401 U.S. 1.

The private domain of an association is a sanctuary, constitutional shelter, shield, and domain set apart and a preserve according to a number of U.S. Supreme Court decisions.

Again, your properly formed Private Membership Association of private members is in the private domain with the protection of numerous favorable U.S. Supreme Court decisions with no decisions to the contrary to date, excepting limitations imposed upon statutory compliant PMAs and PMA's created for the purpose of regulation by the state eg, a State Athletic Assn. or Union membership.

1ST, 4TH, 5TH, 9TH, 10TH, and 14TH Amendment

Private Membership Associations

Background

While not explicitly defined in the Constitution, the Supreme Court has acknowledged that certain implicit rights, such as association, privacy, and presumed innocence, share constitutional protection in common with explicit guarantees such as free speech. Specifically, the Supreme Court has described the right to associate as inseparable from the right to free speech.

The right of association under the Constitution was heavily litigated in the 1950's and 1960's, and members' rights were consistently upheld by the Court. In fact, the right of association became a cornerstone of the civil rights movement.

In general, members of a private membership association do not fall under the jurisdiction of local, state, and federal governments and corresponding laws and regulations. The exception to this general rule is when the activities of the private membership association presents a clear and present danger of substantive evil.

Of interest, a private association was even used for purposes of discrimination as evidenced by a recent case involving the Boy Scouts of America.

A simple example of the use of the right to associate to avoid local laws is drinking clubs. Since prohibition was repealed in 1933, regulation of the alcoholic beverage industry was delegated to individual states. Some states, such as Texas, allow individual counties and cities to govern the sale of alcohol. As a result, 46 of Texas' 254 counties are dry, meaning that the sale of alcohol is forbidden. However, by joining a private drinking club, members are able to sell alcohol to other members even though local law prohibits this activity. (Consumption of alcohol is neither illegal nor has it been deemed counter to society's general interest, particularly in the realm of a 1st and 14th Amendment Association.)

It is important to note that the right to associate is not limited to social or political activities. This right can be utilized for business activities (e.g. sale of alcohol). Members of a private membership association have the right to private contract under the due process liberty clause of the 5th and 14th Amendments, and states may not pass laws that impair the obligation of a contract. In conclusion, under the 1st, 5th and 14th amendments we are granted due process.

Yet we must also look at the 14th Amendment; which guarantees that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

We must look also at the 9th Amendment which guarantees certain inalienable rights to every man, woman and child. Those inalienable rights include not only the freedom of life, liberty, property, speech, assembly and due process, but any right or freedom which is not specifically given by the Constitution to the government. If the Constitution does not assign a specific right or freedom to the government, then we all have that particular right or freedom.

Those freedoms include the right of self-determination, home schooling, choice of suppliers of products and/or services, choice of lifestyle, food, drink and any right or freedom that does not infringe on the rights and freedoms of others or is a threat. In a private membership association, the members have all the rights and privileges not specifically banned by the association unless they present a clear and present danger of substantive evil.

Legal Foundation

To understand the legal foundation for this approach, it is helpful to examine the ways in which this approach might be challenged. This approach is typically challenged in two ways:

The first objection is a substance over form argument that states that this approach utilizes association rights for the purpose of avoiding federal or state laws and regulations. While this is a true statement, the ability of an association to do this is well established. The Supreme Court has stated that “a state cannot foreclose the exercise of constitutional rights by mere labels”. In other words, the label of “just avoiding state regulation” is not permissible.

Furthermore, the members of a private association have the right to contract with each other and conduct business activities, provided that those activities are not “of such a nature as to create a clear and present danger that they will bring about the substantive evils.”

Again, the general rule is that when a private membership association does not raise to the threshold level of a clear and present danger of substantive evil, federal and state governmental authorities and agencies may not interfere with the activities of the association.

The second objection is the assertion that association rights are limited to free speech and advocacy rather than actions (specifically, business activity).

The objection that some persons have for utilizing the 1st and 14th Amendment Private Association for a private association was that association rights were limited to association free speech advocacy, not association actions.

First, let us analyze this objection from reasoned and practical perspective. Free speech advocacy can exist outside of the private association. Considering the context of the association, if free speech is all that can be exercised within the private association, what need would there be to have a private association? The answer is that there would be no need because again, free speech needs no private association to operate.

The U. S. Supreme Court decisions quoted below clearly teach that private association rights are not limited to free speech advocacy, but to private association actions and activities beyond free speech.

The U.S. Supreme Court stated that “In the political realm, as in the academic, thought (speech) and action (beyond speech) are presumptively immune (protected) from inquisition (illegal attack) by political authority

(government).” [Explanations added]

The U.S. Supreme Court stated that, “....abstract discussion (free speech)

is not the only species of communication which the Constitution protects vigorous advocacy, certainly of lawful ends, against governmental intrusion.” The “vigorous advocacy” here is the action or activity of actual litigation or the actual filing and follow-up of lawsuits. The U.S. Supreme Court further stated that, “In the context of NAACP objectives, litigation is not a technique of resolving private differences; it is a means for achieving equality of treatment...” Note that the Court referred to “litigation” as a

“technique”, not free speech. Again, the Court stated that, “We need not...subsume such activity (litigation) under a narrow, literal conception of freedom of speech...”

Freedom of Association Involves Freedom of Speech and Activities

The U.S. Supreme Court has again stated, “We have deemed privileged (protected), under certain circumstances (Private Association), the efforts of a union official to organize workers (action). [Explanations added]

Again note that the action of “litigation controlled by laymen” and “a person organizing workers” outside the First and Fourteenth Amendment private association would be illegal with criminal or quasi- criminal penalties and/or sanctions.

Apparently, a person would be mistaken in his objection that private association rights are limited to free speech advocacy and do not include private association actions. The only question remaining is whether

“litigation” and “organizing workers” are analogous to performing association services. The answer to that question is another question: Outside of the licensing and regulation jurisdictional context, are association services a lawful activity? The answer is, “Yes, of course!”

The state and federal government in its sovereign capacity is vested with police power which includes the power to protect the public. Note that a

“private member” was not included. The exercise of the police power is available only for the purpose of promoting the interests of the public as distinguished from those of individuals or private persons (Emphasis added)

The 1st and 14th Amendments to the U.S. Constitution protect the individual the right to free speech, free expression and free assembly

(freedom of association) against state police power except for special circumstances. “...those guarantees of the Bill of Rights which are fundamental safeguards of liberty immune from federal abridgment are equally protected against state invasion...and therefore made immune from state invasion...are First Amendment’s freedoms of speech...assembly, association...” Also, “...the rights to freedom in speech...were coupled in a single guaranty with the rights of the people peaceably to assemble.”

In addition, the court held that the “membership lists of the very type here in question to be beyond the state’s power of discovery...” . “...the First Amendment does not protect speech and assembly only to the extent it can be characterized as political...And the rights of free speech (and free association) are not confined to any field of human interest.”

“The idea is not sound therefore that the First Amendment’s safeguards are wholly inapplicable to business or economic activity. In other words, the freedom of association is applied to business and other economic activities (such as advertising and marketing associations).

In a properly formed Private Membership Association, members of that association, both professional and non-professional, are protected from state and federal government interference by the First, Fifth, Ninth, Tenth

and Fourteenth Amendments to the United States Constitution. They are also protected by the entire Constitution and the common law supporting the same. Furthermore, members are protected in Canada under Section Two of the Canadian Charter of Rights and Freedoms and Canadian common law protecting members of Peaceful Assembly Associations, and members also enjoy the protections under international law contained within the Universal Declaration of Human Rights (UDHR).

PROBABLE BENEFITS

*Operate an advertising and marketing association, or any private association, outside the jurisdiction and authority of federal and state government and agencies Maintain greater privacy of financial and business affairs of your advertising and marketing association activities.

- Greater security of being able to continue operation in a world of changing laws and politics.
- Increased profits due to unrestricted and beneficial structuring and strategies not available to
  regulated industries.
- Statutes and codes enacted by state legislature requiring the expense of licensing, regulation
  compliance, and insurance requirements to conduct your business activities do not apply within
  the private domain.
- Instead of conducting business under a legal loophole, operate under a legal exemption decided
  by the supreme law of the land, i.e., the Supreme Court decisions interpreting the U.S. Constitution.