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# “Are my personal assets exposed by serving on a not-for-profit board?”

By Spencer M. Houldin and Kurt A. Thoennesen

**Absolutely! While we encourage our clients to serve on not-for-profit boards, they must know it is not without risk.** As a board member, you assume a fiduciary duty, and your acts and decisions can be challenged in the legal system. Therefore, agreement to serve on a not-for-profit board must come after considering the liability you are assuming and understanding the insurance protection in place. Before committing, make sure you learn about the organization and are comfortable with such matters as its human resources policies and procedures and the internal controls surrounding the handling of funds.

**Is coverage afforded through my homeowners and excess liability policies?** Typically, your homeowners and excess liability (umbrella) policies will cover you for bodily injury and property damage arising out of your activities as a volunteer on the board. However, neither covers you for accusations of poor decisions. Suits surrounding mismanagement of funds, wrongful termination, discrimination, breach of duty and conflict of interest are most prevalent. As frivolous as many of these suits may be, the defense costs can be substantial.

Before sitting on a board, you should review the organization's directors and officers liability insurance coverage and limits. Keep in mind that the coverage limit is shared by all board members. Thus, if the board has 10 members and the limit is \$1 million, the protection

provided for you may be insufficient. Many organizations operate on a tight budget and may not have purchased the most comprehensive contracts or the highest limits. Furthermore, with the recent corporate scandals and the regulatory changes brought on by Sarbanes-Oxley, insurance companies are underwriting organizations more strictly and limiting the coverages provided.

**How can I protect myself and my assets?** Many carriers have the ability to add directors and officers coverage to your umbrella policy. Typically, the coverage will cost under \$1,000 a year and provide \$1 million or \$2 million of protection, as long as you sit on five or fewer boards and the organization(s) carries a policy with a minimum limit of \$1 million. Terms and conditions differ by carrier, so consult your insurance advisor.

Alternatively, you can purchase a separate personal directors and officers liability policy that will cover you in excess of any coverage provided by the organization. You can secure limits up to \$10 million and the policy can be tailored to provide coverage over multiple organizations with customized terms. Very often we can negotiate the contract to allow for you to choose your own counsel in the event of a suit. The cost is dependent on the types of organizations and the limits desired.

For more information on this topic, please consult our website at [www.iericson.com/worth](http://www.iericson.com/worth). ®

## HURT BY THE BEST INTENTIONS

Mary's father had always taught her to give back to the community. She sits on three not-for-profit boards; one, which she joined a year ago, is a prestigious local land trust. Seven years ago, John Chandler's estate left \$2.5 million for land acquisition. When an energy company threatened to lay a natural gas pipeline through the region, the land trust board decided it would lead the charge to fight the pipe. It hired a prominent law firm to represent its interests and accumulated nearly \$750,000 in fees over the course of three years. The board paid the legal bills with the Chandler funds; the present board was unaware the money was left specifically for land acquisition. The heirs brought suit against the board for misappropriation of funds, naming the board members individually, as well as the organization. As a result, Mary now loses sleep.

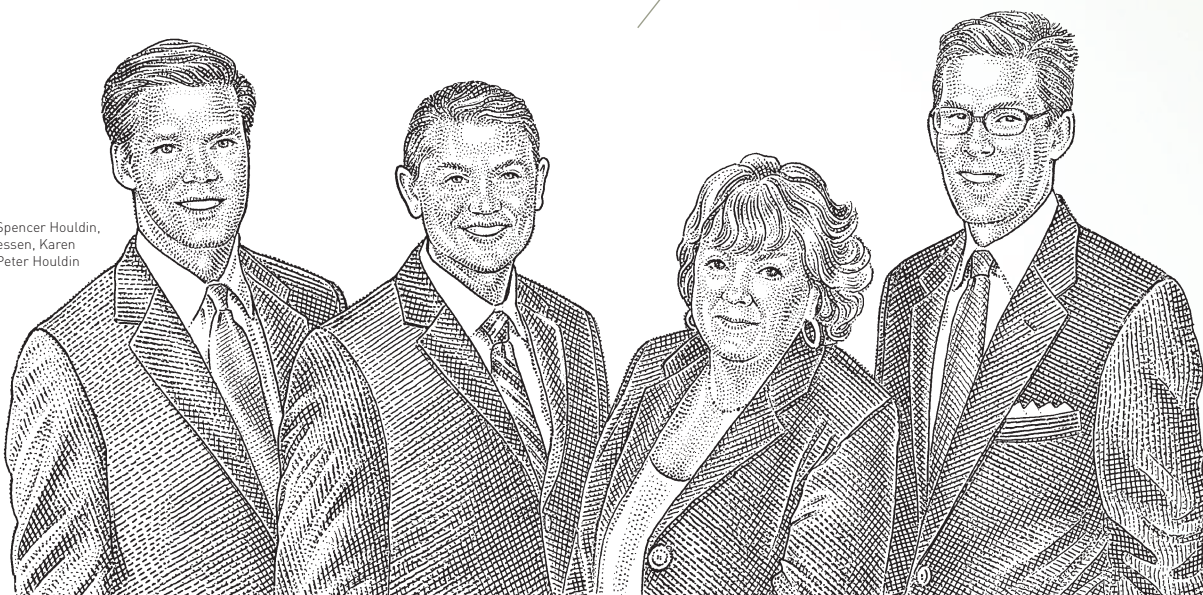
**“While we encourage our clients to serve on not-for-profit boards, they must know it is not without risk.”**

– Spencer M. Houldin

#### How to reach an Ericson advisor

Please call our office at 646.703.0411 or email Spencer at [shouldin@iericson.com](mailto:shouldin@iericson.com).

Left to right: Spencer Houldin, Kurt Thoennessen, Karen Russell and Peter Houldin



#### About Ericson Insurance Services

Ericson is a 75-year-old insurance firm dedicated to satisfying the personal insurance needs of the high net worth individual. With offices in Connecticut and New York City, Ericson provides insurance in all 50 states through 12 reputable carriers. The firm is comprised of 22 licensed insurance advisors who are specially trained to understand the needs of the affluent consumer. They are extremely engaged in the industry, as evidenced by their principals' activities in 2009, which included testifying in front of both chambers of Congress and making multiple appearances on nationally televised programs.

Minimum Net Worth Requirement  
**\$1 million**

Years in Business  
**75**

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Spencer M. Houldin  
*President*

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