

CHAPTER 1 - THE 501(c)(3) CORPORATION

As I've emphasized almost ad nauseum throughout this volume, a major key to self-empowerment for the artist (or truly committed professional) is the tax-exempt 501(c)(3) not-for-profit corporation. In order to help you understand it in concept and application – and to de-mystify its often exaggerated complexity – the information is presented in the form of questions and answers.

But before we proceed, one thing must be made eminently clear. I am not an attorney. Therefore, none of what is written here constitutes legal advice. The information contained here is what I've learned over the years, with the assistance, guidance and consistent input of Leonard Easter, one of the foremost attorneys and educators on the subject. I first met Mr. Easter in 1980 when he incorporated Outward Visions while serving as Director of Volunteer Lawyers for the Arts. Since then we have worked together on numerous projects, including the incorporation of nearly fifty 501(c)(3) corporations specifically dedicated to the art of jazz, many of which are artist-driven. Mr. Easter has taught at both Columbia and Yale University Schools of Law and is currently a Professor at New School University.

Mr. Easter has reviewed this chapter and his comments, observations and recommendations have been absorbed into it. But there are so many nuances and circumstances that can arise in the course of any business pursuit that the general information contained here should not be applied as legal justification and warrant on its own. Furthermore, rules and conditions can vary from state to state. (Most of my personal experience has been with New York State corporations.) The information contained here is generally based on the Federal guidelines and regulations that govern all U.S. non-profit cultural and educational 501(c)(3) corporations.

An important issue must be brought up here as well. So much has changed in the lives of all Americans since that fateful day on September 11, 2001. One of these changes is a greater scrutiny of non-profits due to concerns about fundraising methods for terrorist activities. As a result, new regulations are popping up regularly on both the federal and local levels. While Mr. Easter has factored in all of the existing changes as of August 2003 (when this is being written), it's simply not possible to project what other changes may ensue. (Unfortunately, that is a situation that all of us face in many, many aspects of day-to-day life.) So please be advised accordingly.

An additional note – since this chapter does not constitute legal advice, terms may be used that have a legal connotation that may differ from the manner in which I'm using them here. For example, *partnership*, which I often use to denote a relationship between two or more entities for mutual benefit (and a commonly used term these days in the non-profit fine arts realm) has a different *legal* meaning denoting a “for-profit” relationship. For this, among many other reasons, specific legal guidance is required for the proper application of the material contained in this chapter.

As with the rest of this book, this information is designed to help you understand how non-profit works, and the best ways to apply it to your intentions. It is not designed to tell you what specific goals, purposes, by-laws or activities to adopt. It will also not spell out the full legal process of application, etc. such as form numbers, filing codes or the like. That information is available on the Internet, or

through qualified attorneys or legal organizations that handle the process, and will differ from state to state.

But after reading this, you should understand the nature of the beast; whether or not it is the proper vehicle for your endeavors; and how it can work for you in accomplishing your goals. It's important to recognize that the NFP is not a magic elixir. The artist should have a clear sense of purpose from an artistic/educational perspective, along with a handle on his or her own business concerns (either personally or through trusted associates) before pursuing this direction. Just as having a baby is *not* a solution for a dysfunctional marriage, developing a NFP in a screwed-up situation could make the situation even more screwed-up.

The questions are divided into six sections:

- A. Understanding the Basic Principles**
- B. Setting Up the 501(c)(3)**
- C. The Board of Directors**
- D. Funding**
- E. The Artist's Role**
- F. Meetings, Filings and Other Formalities**

