



## Directors' & Officers' Liability



### Know the Legal Risks of Being a Volunteer Board Member

According to the 2007 Canada Survey on "Giving, Volunteering and Participating" about 9% of Canadian volunteers serve on boards and committees compared to 36% of volunteers serving on boards in 2004. Despite their commitment to countless causes and organizations many board members may be unaware of the legal ramifications of their volunteer work and the possibility of being held personally liable. This liability applies to all non-profit organizations including clubs, associations, societies, leagues committees and charities.

The basic responsibility of directors is to represent the interest of the organization, their members and their constituencies in directing the affairs of the organization, and to do so within the law. In their role as "trustee", directors have three basic duties:

- **DILIGENCE** to act reasonably, prudently, in good faith and with a view to the best interests of the organization and its members.
- **LOYALTY** to place the interests of the organization first and to not use one's position as a director to further private interests.
- **OBEDIENCE** to act within the scope of the governing policies of the organization and within the scope of the other laws, rules and regulations that apply to the organization.

A volunteer director who fails to fulfill his or her duties as outlined above may be liable.

The term 'liability' refers to the responsibility of directors and organizations for the consequences of conduct that fails to meet a pre-determined legal standard. Usually, the term "consequences" refers to damage or loss experienced by someone, and being responsible for such "consequences" can mean having to pay financial compensation.

#### Directors and officers may be held personally liable for claims arising from:

- Activities of volunteers and/or staff in the name of the organization
- Employee discrimination
- Wrongful dismissal
- Breach of duties as described previously

#### Claims may be made by:

- Volunteers
- Employees
- Government bodies
- Suppliers
- Customers
- General public

### How to Minimize the Risk to Board Volunteers

The process of risk management is a simple three-part activity. It involves:

1. Examining a situation and asking what can go wrong and what harm could result
2. Identifying practical measures that can be taken to keep such harm from occurring; and
3. If harm does occur, identifying the steps that can be taken to lessen the impact of harm and pay for any result damage or losses.