

TN TOP 5

Things Your Social Media Policy Should Address

It's a viral world and companies aren't always able to control what is said about them in the world of social media. One bad blog post, clip of the office party on YouTube or hostile Tweet can have you in the spotlight for unwanted reasons. The first step in trying to control your message is to be clear with your employees about what is and is not acceptable. You need to make sure they are aware employers have the right to monitor and restrict their employees' use of social media (Facebook, LinkedIn, YouTube, Twitter, etc.) to the extent it relates to your business, whether their use is at work or at home. Although each business will need to customize their policy, these guidelines will be a good start:

1. Introduce the policy by making employees aware of how you want to leverage social media (increase sales, brand awareness, establishing credibility as experts). Explain what they can do when using social media not just what they can't do.

2. Let employees know that the social media policy is directly aligned with the other policies in place, e.g. sexual harassment, bullying or slander. Inappropriate computer use or social media postings can result in termination; spell out what would be cause for termination.

3. Be clear that employees need to delineate between self-expression and expression concerning the employer. If engaging in self-expression, it should be clearly personal so as not to be confused as being made on behalf of the employer. If regarding the employer, there should be requirements, such as avoiding disclosing trade secrets, financial status, customer information, confidential, or trademarked or proprietary information.

4. Have "Best Practices" for users, including such things as how much time they are allowed on social media sites while at work, the behavior and ethics you expect, that they are to represent the company in a factual way and always stop before hitting "send" or "post" to ask yourself – could this be used against me or my company?

5. Awareness. Post the policy and have your employees sign off on the policy. Have a team meeting to go over the policy and answer any questions your employees might have. Your policy should be reviewed and updated often, as social media changes quickly.

The world of social media, as well as an employer's control over it, is evolving and remains somewhat undefined. The uncertainty of social media has a myriad of potential implications. Employers should consult with an attorney when considering the subject.

What You Need to Know Before You Consider a Short Sale

If you're considering a short sale of your home, be well informed going into the process. It is not a simple, fast or painless transaction. In essence, a short sale is a lender or a creditor's approval to sell your home for less than the amount owed. For many who are "upside down" in their homes, it can be an option to get out from under their debt, if all goes according to plans.

First be aware that a short sale is a privilege, not a right — it is at your creditor's or bank's discretion and they will only approve the sale if it makes financial sense for them. If they do agree, it does not automatically mean your debt will be satisfied — they may forgive all, a portion or none of the debt. They may release the mortgage, but it doesn't mean they will automatically satisfy the debt. The amount you owe is based on your contractual obligation to repay the lender through the terms of a Promissory Note, and even if the mortgage is released, the obligation under the Promissory Note may remain.

For a concrete example, let's assume your home is worth \$125,000 and you owe \$150,000 (first mortgage only, no other debt against the home). If you receive an offer for \$125,000, you cannot sell the property unless the mortgage gets released. The lender holding the mortgage would have to approve the release of the mortgage, or you would have to bring the \$25,000 that remains unsatisfied from the sale in order for the sale to close. If the mortgage is released, with nothing more, you may still remain obligated to pay the \$25,000 outstanding/unsatisfied amount of the note.

Lenders may be more accommodating when your financial picture (and their ability to recover from you) is bleak, and the amount of debt that will be unsatisfied is small. They tend to be less accommodating where a large amount of the borrowed money will be unsatisfied by the proposed sale and where the borrower has investments, income or other property that could be accessed to satisfy the amount owed.

Before you enlist the help of a real estate agent to list your property for sale or to negotiate a short sale, spend some time initially with a knowledgeable attorney or financial advisor to discuss the issues and how such a transaction may impact your own personal financial goals and credit score. Clients are sometimes uneasy paying an attorney to advise them of the risks and assist them in the process of negotiating a short sale. However, it is far easier (and less expensive) to address such issues proactively, than reactively. If you are contemplating a short sale, speak with your attorney. If you aren't already working with an attorney, feel free to contact Thomsen Nybeck.

--
Brad Boyd contributed to this article. He practices in the areas of Real Estate, Real Estate Brokerage and Business Law. bboyd@tn-law.com

Year-End Tax Planning Tips

Gift Planning

For 2009, the gift tax annual exclusion is \$13,000 per gift recipient. You and your spouse can gift up to \$26,000 to any one person in 2009 and won't need to file a gift tax return or use any of your federal gift/estate tax credit. You can also gift your property and have your spouse be treated as having gifted half. Gift splitting does require you to file a gift tax return and have your spouse sign the return consenting to split, but is a good way to make use of your spouse's gift tax annual exclusion.

If you pay someone's medical expenses or school tuition directly to the medical provider or the educational institution, the payment is not considered a gift, does not count towards your annual exclusion or use up any gift/estate tax credit. This is a good way to assist a child or grandchild with college expenses.

Gift checks you've given in 2009 need to be cashed before the end of the year. If they don't clear the bank until 2010, they will count toward next year's annual exclusion.

You can gift to a charity by paying with a credit card this year and still get the charitable deduction even if the credit card bill is paid next year. Consider giving gifts of appreciated property to charity. Not only do you get a charitable income tax deduction for the full value of the property, but you don't recognize any capital gain tax on the property gifted.

Income Tax Planning

Try to accelerate any income tax deductions into this year by paying for the deductible expense this year. Also consider deferring any income until 2010 to get as many deductions this year and hold off incurring tax liability on income until next year. While 2010 still looks good for lower tax rates, it is expected rates will rise in 2011 to a high of 39.6 percent for married taxpayers above \$250,000 of income.

To get the deduction this year, consider prepaying your state income tax obligations in December by making a payment based on what you expect to owe next April. Remember, a portion of the legal fees you paid for estate planning advice may be tax deductible as consultation regarding estate tax. It's also a good idea to bunch miscellaneous itemized deductions into the same year to exceed the 2 percent of adjusted gross income limitation.

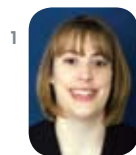
For deferring income, taxpayers have the ability to suspend taking their required minimum distribution from IRAs and other retirement plans this year. Also consider harvesting long term capital losses to offset gains this year. If your IRA is still down in value from the market decline, you may want to convert some of the taxable IRA to a nontaxable Roth IRA while the values are still low. Going forward, any appreciation will come out of your Roth tax free.

For more guidance on tax planning tips, contact any of the estate planning attorneys at Thomsen Nybeck.

--
Dennis Patrick contributed to this article. Dennis focuses his practice on Estate Planning, Probate and Business transactions. dpatrick@tn-law.com; (952) 835-7000.

Same team, same neighborhood, new address

The firm has completed its move into new offices, which are located at 3600 American Boulevard West, Suite 400 in Bloomington. Please stop by to see our new home; improving our space to improve our service to clients.



1 Deb Newel (1) has been appointed by Governor Pawlenty to the Minnesota State Board of Physical Therapy.



2 Dave McGee (2) is a presenter at the upcoming 27th Annual Real Estate Institute. Dave will be speaking about aspects of real estate litigation. Dave also moderated a question and answer session for a recent training session presented by Community Association Training (CATs).



3 Gretchen Schellhas (3) was a presenter at the Community Association Institute's Manager's Luncheon on October 14. She spoke about the ins and outs of rule enforcement by homeowners associations.



4 Matt Drewes (4) was quoted in several articles appearing in the August edition of hoaleader.com, a national web-based publication focused on community associations, on issues ranging from board elections and recalls to reserve studies and tips on insurance coverage. To review the articles, visit www.tn-law.com, and click on the "Articles" Section.



5 Ivory Ruud (5) authored the article "You Can Cut Battles Over Vacation Home," which appeared in the August/September 2009 issue of *Upsize* magazine.



6 Chris Renz (6) began his seventh year as a Legal Writing Instructor at the University of Minnesota School.



7 Natalie Walz (7) completed the Twin Cities Marathon with a time of 3 hours and 38 minutes, which qualified her for the Boston Marathon.



8 Brad Boyd (8) completed the 62-mile Tour de Tonka bike ride on a fixed gear (single speed) bike in August.

ATTORNEYS

This newsletter is presented to you by the attorneys of Thomsen Nybeck:

Brad J. Boyd
Jack W. Carlson*
Matthew A. Drewes
Gordon V. Johnson
Thomas R. Kelley
Nathan J. Knoernschild
Robert D. Lucas
David J. McGee
Debra M. Newel

Mark G. Ohnstad
Dennis M. Patrick
Christopher P. Renz
Ivory L. Ruud
Gretchen S. Schellhas
William E. Sjolholm
Donald D. Smith*
Natalie R. Walz
Ryan J. Wood

* Of Counsel

Cover page photo credit:
Fall Leaves
by Brad Boyd

PRACTICE AREAS

Thomsen Nybeck has in-depth experience and knowledge in the following practice areas. Call us at (952) 835-7000 to discuss your concerns or to determine if you have a case.

Business Law
Construction Defect Litigation
Corporations & Partnerships
Criminal Law
Employment Law
Estates, Wills and Trusts
Family Law

Financing Litigation
Personal Injury
Real Estate
Taxation
Townhome & Condominium Law
Wind Energy

“Large enough to be effective.
Small enough to care.”