



The Origins of the MoSto Foundation

4 messages

Thu, Jul 21, 2011 at 9:04 PM

To [REDACTED]

I'm going to forward a few of these old emails to you so you can see how things started with MoSto last year (the beginning email is at the end of the forward). This may be (way) more detail than you need, but I thought it might be interesting for you to get the lay of the land.

I wasn't involved when John discussed entity formation issues with Ryan, but Ryan originally incorporated MoSto in AZ because AZ law allows for a single-director entity whereas most states require a board of directors. John preferred to go without a board, since it would streamline the decision making process and the general administration of MoSto. When I realized that John would be the sole director, sole employee, and owner of much of the intellectual property of MoSto, however, I started pushing harder for a board of directors to reassure the IRS that MoSto wasn't merely a pass-through entity created solely to directly benefit John. Once we all agreed that MoSto needed a board of directors, incorporating in AZ instead of UT didn't make as much sense since MoSto has limited contact with AZ.

I'm not sure if we ever re-incorporated in Utah, although we talked about it. There were other issues threatening to distract us from the IRS filing at that point (including who owned the intellectual property consisting of the podcasts, etc.), so we filed for IRS tax exempt status with MoSto incorporated in AZ. My only concern now with respect to the issue of incorporation is that we follow the state laws under which MoSto is incorporated (including filing annual tax reports), and file as a foreign entity in any state that requires MoSto to register before fundraising or transacting significant business in that state.

I haven't been paying much attention to the emails from Ryan, but I think he's in charge of all the state and IRS filings and he drafts the minutes of the Board Meetings. It would be great if he's still willing to do this, and I can check in with him and ask if he needs any help. Otherwise, I'd be happy to take it over.

One more quick thing: we need to make sure MoSto's financial house is in order, which means that someone in addition to John is recording and disbursing funds from the MoSto account. An easy way for the IRS to ding a non-profit is when directors or employees "launder money" through the non-profit entity. An example of this is if John approached a large donor and told her that she could donate, say, \$5,000 to MoSto and take a tax exemption for the donation, but the \$5,000 donation would pass through MoSto to John individually for his personal use. I've already talked to John about this (and flagged it as an issue in one of the emails), but a lot of non-profits have been tripped up on this.

Also, we should talk about the way MoSto classifies an independent contractor/consultant to make sure it's consistent with IRS regs. And I'm not sure there's much of a need to talk about MoSto unrelated business income at this point, but I've included an excerpt from an article about UBIT that you might be interested in just for background info.

It was great to see you today! Let's keep in touch and feel free to ask any questions.

All the best,

[REDACTED]

Unrelated business income (UBIT)

The UBIT is a tax on income earned in a manner that is "unrelated" to a non-profit organization's charitable purpose. Thus, art museums are not required to pay UBIT on profits earned from sales of art reproductions in museum shops. But art museums are required to pay UBIT on profits earned from sales in their shops of "unrelated" items, such as magazines or pain relievers. Ticket sales for its college football games are not taxable to a university, but income generated by renting its sports facility to a professional team is subject to the UBIT. Advertising revenue is generally taxable under the UBIT. Most types of capital income are explicitly exempted from the UBIT, so that, for example, educational institutions are not subject to UBIT on interest, dividends, and capital gains earned by their endowment funds. An important exception is that debt-financed investments are subject to the UBIT.

The fact that a non-profit organization uses the income that it earns to further its exempt purpose does not imply that any income-earning activities are therefore "related" to the purpose and consequently exempt from the UBIT. Income is subject to the UBIT based on the way in which it is earned, not the way in which it is used. The UBIT provisions are intended to prevent "unfair" competition between non-profit organizations and taxable competitors and to protect the integrity of the tax base from erosion due to tax-motivated transactions between taxed and untaxed entities.

<http://www.nber.org/chapters/c10921.pdf>

----- Forwarded message -----

From: [REDACTED]
 Date: Mon, Jun 21, 2010 at 9:19 PM
 Subject: Re: Board of Directors for MoSto Foundation
 To: John Dehlin [REDACTED]
 Cc: Ryan Millecam [REDACTED], Cliff Grover [REDACTED], Tom Grover [REDACTED]

If I can't direct the funds as I need them (to help pay my way through school), and if I got bogged down in board conflict -- it would probably end me. My initial logic for creating the foundation was that folks would be willing to donate more if they got a tax deduction. That's about it. Am I missing something at this point?

I think what you might be missing is that the IRS refuses to grant non-profit status to organizations that earmark funds to be used by a specific person. You may remember the Mormon missionary cases, wherein the IRS refused to allow parents to set up a trust fund - or allow the Church to set aside specific funds - to pay for their childrens' missions.

If you are the sole director of the Mormon Stories organization and are drawing money from the organization to pay your way through school and not to fund the mission of Mormon Stories, then you're not going to qualify for non-profit status. In other words, you can't use Mormon Stories as a pass-through entity to fund your schooling and pay your expenses. You may become an employee of Mormon Stories and draw a salary, but you can't use these funds for your personal use as a director of a non-profit organization.

On Mon, Jun 21, 2010 at 8:46 PM, John Dehlin [REDACTED] wrote:

Elisabeth,

Great question. (Looping in the 2 Grovers -- Grover Sr. (my accountant) and Grover Jr. (Sr.'s 3rd year law school son who is specializing in non-profits).

Right now, as I'm trying to get my Ph.D. -- I think my greatest need is simplicity. I feel as if I need to be able to operate the foundation with as little time commitment as possible. If I can't direct the funds as I need them (to help pay my way through school), and if I got bogged down in board conflict -- it would probably end me. My initial logic for creating the foundation was that folks would be willing to donate more if they got a tax deduction. That's about it. Am I missing something at this point?

Over time, I can see a real value in having a board -- really cool/influential people who feel ownership of MS's

potential as much as I do...and who can team with me to make good things happen. But I'm wondering how valuable that would be if I'm only pulling in \$20k to \$30K a year (which is the max I think I'll be pulling in).

So I'm happy to listen...but this is my thinking. Let me know what ya'll think I'm missing....or if we are on the right track as is (w/ an AZ corp and no board).

On Mon, Jun 21, 2010 at 5:29 PM, [REDACTED] wrote:

I agree with John. If there's no reason to create a Board with multiple directors for IRS purposes, then we should keep it the way it is since it's easier to transact business, etc. with only one director. And if single-director entities qualify for 501(c)(3) status, then I'm not sure what the accountant's specific concern is here. I guess we can always file and amend our filing if the IRS tells us we need to add more directors.

John, sometimes big donors to a charity like to be Board Members, but I'm guessing you want to have sole control, right?

On Mon, Jun 21, 2010 at 8:24 PM, John Dehlin [REDACTED] wrote:

Just to be clear -- if I don't need to add a board of directors to be successful....I'm very cool w/ simplicity.

On Mon, Jun 21, 2010 at 5:12 PM, Ryan Millecam [REDACTED] wrote:

They probably prefer more directors—but single-director Arizona entities qualify. Still, John has talked about adding directors before. And if we're going to make changes, now's the time. We might consider transferring the entity's domicile, since the big reason for filing in Arizona was the single-director requirement. Most of the entity's business is in Utah, and at some point we should register as a foreign entity. But, changing domiciles could be more trouble than it's worth.

And yes, I'm the registered agent here, am keeping records

From: [REDACTED]
Sent: Monday, June 21, 2010 5:06 PM
To: Ryan Millecam
Cc: John Dehlin

Subject: Re: Board of Directors for MoSto Foundation

Hi, Ryan -

I've worked with non-profits incorporated in Utah and in Massachusetts, so the question about multiple board members has never come up. I can do some quick research into the IRS regs, but I would guess that the preference for more than one director (if there even is such a preference), is to reduce the possibility for (or appearance of) conflicts of interest arising from self-dealing.

Are you the registered agent for the Mormon Stories corporation in Arizona? Will you be keeping the Board minutes and filing the annual reports, etc?

Best,

■

On Mon, Jun 21, 2010 at 4:52 PM, Ryan Millecam <[REDACTED]> wrote:

[REDACTED],

Arizona only requires one director—which is one reason why we incorporated here (instead of Utah, which requires at least 2). If we are going to add directors, we will need to amend the articles filed with the Arizona Corporation Commission (for some reason known to God and the legislature, we file through the ACC, not the Sec. of State).

Right now the question is what will best for getting the 1023 approved by the IRS. I've formed several non-profits, some with only one director. But I've only helped out a little bit with filling out the 1023 and working with the IRS. So I don't know how much they frown on a single-director. My hunch is: not much, if the size of the operation is small enough. So maybe Mormon Stories is big enough that John's accountant is concerned. And John's accountant seems to be the expert on this.

-Ryan

From: [REDACTED]
Sent: Monday, June 21, 2010 1:46 PM
To: John Dehlin
Cc: Ryan Millecam
Subject: Re: Board of Directors for MoSto Foundation

John,

I'm not familiar with the Arizona incorporation statutes, but in Massachusetts every business incorporated under MA law has a Board of at least two Directors.

Could we talk sometime this evening? I'll review your docs and will be able to better answer your questions then.

Anytime after 8 pm Eastern will work for me.

Best,

■

On Jun 21, 2010, at 4:06 PM, John Dehlin <[REDACTED]> wrote:

[REDACTED]

My accountant seemed to strongly recommend that I pull together a board of directors for the foundation.

What are your thoughts on that?

Let us know. Thanks!

John

On Mon, Jun 21, 2010 at 12:25 PM, Ryan Millecam <[REDACTED]> wrote:

If that's what she's suggesting, we can add directors. But it will take a bit of doing. We'll need to amend the articles filed with the Arizona Corporation Commission. And we'll need adopt new bylaws. All of this will have to be done before filing with the IRS.

-Ryan

From: John Dehlin <[REDACTED]>
Sent: Monday, June 21, 2010 11:46 AM
To: Ryan Millecam
Subject: Board of Directors for MoSto Foundation

Ryan,

I have a lawyer friend helping to fill out the IRS tax exempt status application (she's done this before and has some time to dedicate), and I have an accountant friend helping me with setting up accounting stuff for the foundation.

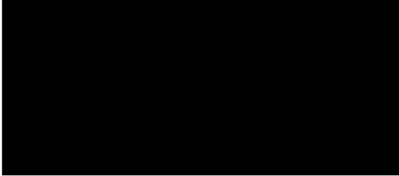
My accountant friend is suggesting that I/we set up a board of directors -- to maximize the credibility of our project. I seem to remember you telling me that I should contact you if I was wanting to set up a board of directors. What are your thoughts on how to go about this?

Please let me know when you can. I'd like to get this going soon so I can set up my accounting situation (how I pay myself, how to fund school, etc.), and so that my IRS application is as credible as possible.

Thanks, Ryan!

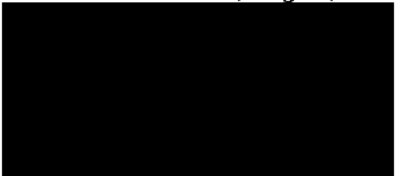
--

John Dehlin, M.S.
Psychology Doctoral Program
Utah State University
2810 Old Main Hill, Logan, Utah 84322-2810




--

John Dehlin, M.S.
Psychology Doctoral Program
Utah State University
2810 Old Main Hill, Logan, Utah 84322-2810



--

John Dehlin, M.S.
Psychology Doctoral Program
Utah State University
2810 Old Main Hill, Logan, Utah 84322-2810



[Redacted]

John Dehlin, M.S.
Psychology Doctoral Program
Utah State University
2810 Old Main Hill, Logan, Utah 84322-2810

[Redacted]

Fri, Jul 22, 2011 at 4:30 PM

To: [Redacted]

I can't thank you enough [Redacted]. Seriously.

This morning I talked to John about the possibility of incorporating in Utah. He committed to resolving this issue early next week when he returns from San Diego. Do you think it would be a good idea for us to plan on at least registering in Utah prior to our August 12th fundraising event/conference? My thought is that the event is a good excuse to just get the full job done if doing so isn't too much of a strain on anyone right now.

Early next week we will also address and resolve the issue of having multiple people responsible for recording and disbursing funds.

I can't can't can't can't thank you enough. Oh, wait, I'm being repetitive. I guess that must be because I really can't thank you enough. (Okay, I'll stop now. Serious big thanks, though.)

It was fun to see you and [Redacted].

[Redacted]

[Quoted text hidden]

Fri, Jul 22, 2011 at 4:32 PM

To: Joanna Brooks [Redacted]

[Quoted text hidden]

Joanna Brooks [Redacted]

Fri, Jul 22, 2011 at 11:47 PM

Thank you for your message. I am away from campus with limited email access until August 12.

If you need immediate assistance, please contact [Redacted]

If you are an MA or MFA student with questions regarding the graduate program, please contact [Redacted]

[Redacted]

[Redacted]

If you are an undergraduate student with questions pertaining to registration, please contact Undergraduate Advisor

[Redacted]

Sincerely,

Joanna Brooks

[Quoted text hidden]

[Redacted]