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Please Reply to:

SOX REVISITED: **ESSENTIALS FOR MEETING PROFESSIONALS**

1. **INTRODUCTION**: A Sarbanes-Oxley Primer.
2. **CONFLICTS OF INTEREST**: Real Conflicts vs. Appearance of Conflict -- Is There a Difference? How to Avoid Conflicts.
3. **WRITTEN CONFLICTS POLICY**: Company Policies on What to Disclose & How.
4. **ETHICS RULES / FIDUCIARY DUTY**: Things That Every Employee, Planner & Supplier Must Consider.
5. **DOCUMENT RETENTION**: What to Keep / What to Throw Away.
6. **SOX & CONTRACTING**: How SOX is Changing Meeting Industry Agreements.
7. **SUPPLIER CONTRACTS**: The Increasing Burden on Independent Planners & Meeting Suppliers.
8. **ALCOHOL POLICIES**: Corporate Statements Governing Alcohol Consumption.
9. **DATA SECURITY**: The Fiduciary Duty to Protect Valuable Information & Data.
10. **MEETINGS OUTSIDE U.S.**: Successfully Implementing SOX Mandates Outside the U.S.
11. **QUESTIONS & ANSWERS**: Your Questions Answered.

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BIOGRAPHY OF JOSHUA L. GRIMES, ESQUIRE

Joshua L. Grimes, Managing Attorney of Grimes Law Offices, LLC in Washington, DC and Philadelphia, specializes in serving the hospitality industry. Among his clients are meeting and event planners, associations, trade groups, hotels, restaurants, convention and conference facilities, and tour operators.

In his law practice, Mr. Grimes meets the specialized legal needs of hospitality industry professionals. His work on behalf of associations and meeting and event planners ranges from incorporation issues to association governance, attrition mitigation, liquor liability, contract drafting and review, employment issues, and ADA compliance. Mr. Grimes' advice helps planners protect themselves and their organizations from potential risks and damages, and thereby reduce the likelihood that they will face costly legal problems in their work.

Mr. Grimes also represents hotels, tour operators, convention centers and meeting facilities. His work for hotels includes contract negotiation, franchise and management agreements, property sales, labor issues, and civil litigation. Mr. Grimes was in charge of legal matters for the opening of the Pennsylvania Convention Center.

A former aide to Pennsylvania Governor Edward G. Rendell, Mr. Grimes is Legal Counsel to the Greater Philadelphia Hotel Association and a member of the Academy of Hospitality Industry Attorneys. He served as Chair of the AHIA's recent meeting in Philadelphia.

A frequent author and speaker on hospitality law topics, Mr. Grimes was an Adjunct Professor of Hospitality Law in the **Temple University School of Tourism and Hospitality Management** from 1999-2006. His articles are often featured in publications such as *Convene, Corporate Meetings & Incentives, The Meeting Professional, Lodging Hospitality, Successful Meetings, Association Trends, Event Solutions*, and *Mid-Atlantic Events Magazine*.

Mr. Grimes is a **Platinum Series** Speaker for Meeting Professionals International (MPI). He also participates in **PCMA's Chapter Professional Development Series**.

Mr. Grimes is a featured speaker at major hospitality industry meetings as well. In April 2008 he spoke at **MPI's Gulf Meetings and Events Conference** in Dubai and the **Gulf Incentive, Business Travel, and Meetings Exhibition** (GIBTM) in Abu Dhabi. Mr. Grimes has also spoken at international conferences of the **American Society of Association Executives (ASAE)**, **Meeting Professionals International (MPI)**, the **Professional Convention Management Association (PCMA)**, the **Hospitality Sales & Marketing Association International (HSMIAI)**, the **International Association for Exposition Management (IAEM)**, the **International Association of Assembly Managers (IAAM)**, the **International Special Events Society (ISES)**, the **Association of Collegiate and College Events Directors - International (ACCED-I)**, and the **Canadian Association of Exposition Management**.

Mr. Grimes is a graduate of the University of Pennsylvania and The George Washington University National Law Center. He is admitted to the Bars of Pennsylvania, New Jersey, and the District of Columbia.

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MEETING PROFESSIONALS INTERNATIONAL



**SOX REVISITED:
ESSENTIALS FOR
MEETING PROFESSIONALS**

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Purposes of Session


- Understand How Sarbanes-Oxley Changed Best Practices.
- Define Conflicts of Interest & How to Avoid Them.
- Create Contracts to Ensure Meaningful Compliance With Your SOX Obligations.


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This presentation is for informational purposes only and does not constitute legal advice. Those seeking legal assistance are directed to seek advice from a competent attorney of their choosing.




 *A SOX Primer:*

- The "American Competitiveness & Corporate Accountability Act of 2002."
- Intended to Re-Build Public Trust in Companies.
- Best Practices Apply to Public Companies, Private Entities, Non-Profits & Associations.

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 *Scenario #1 – Conflict of Interest*

Planner Sarah, working for BigCo, contacts Lush Resort to schedule a site visit for a BigCo retreat. The resort offers to comp her room and meals for 1 night. But Sarah has a better idea: she tells the Resort that she wants to invite her sister and her nieces to join her, and they would like a room and meals comped for 2 weekend nights so she can get the "full flavor" of the facilities.

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Scenario #1 - Question

Should Sarah accept 2 nights' room and board for her, her sister & nieces?

- A. Yes, if the Resort considers it to be a reasonable marketing expense.
- B. Yes, provided that Sarah discloses the comped benefits to her boss and he gives her the okay.
- C. No, unless Sarah's guests pays for their own stays.
- D. No, because the comps create an appearance of impropriety that implies that the Resort would be chosen for BigCo's event based upon the personal benefits given to Sarah.

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Conflicts of Interest

- SOX is Concerned With All Arrangements Between Company & Employees, Officers, Directors, Trustees, Major Donors & Their Families.
- Financial Conflicts Important, But Not the Only Kind of Conflict.
- Transactions Must Be Fair and in Company's Best Interests.

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Conflicts of Interest

- Insider Transactions & Favoritism is Closely Scrutinized and Discouraged.
- Potential Conflicts Should be Evaluated by Impartial Decision Makers.
- Conflicts Should Require Disclosure and/or Disqualification, Depending on the Company.
- Adopt Written Conflict of Interest Policy.
- Key Elements:
 - Disclose Information that May Result in *Perceived or Actual* Conflict.
 - Affected Persons Should Abstain From Interested Decisions.

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Ethics Rules – Fiduciary Duty

- Directors & Officers Owe a *Fiduciary Duty* to Organization, Including:
 - Duty of Loyalty: Act in Best Interests.
 - Duty of Care:
 - Informed Decision-Maker.
 - Act as *Ordinary Prudent Person*.

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Independent Audits / Financial Controls

- SOX Best Practices Require Independent Oversight of Spending & Finances.
- Internal Fiscal Controls Should be In Place.
- Written Corporate Travel Policies Increasingly Common.
- "Smart" T & E Cards On the Rise.

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Corporate Travel Policies

- When First / Business Class Travel Permitted.
- Limits on Meal Expenditures; Alcoholic Beverage Guidelines.
- Permissible Entertainment Expenses.
- Corporate Hotel Contracts.
- How/When Waivers May Be Granted.

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Document Retention

- Create & Implement Written Document Retention & Destruction Policy.
- Maintaining & Disposing of E-Mails, Voice Mail & Computer Back-ups a Major Issue.
- Destroying E-Docs to Avoid Court Disclosure Also a Problem.

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New IRS Tax Return Rules

- Form 990 Requires the Following:
 - Compensation of Officers, Directors, Senior Employees.
 - Verification of Conflict of Interest Policy.
 - Disclosure of Audit / Financial Accuracy Procedures.
- Tax Return Available for Public Disclosure Upon Request.

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SOX & Contracting

- Contracting Controlled by Procurement or Financial Administrators.
- "Kitchen Sink" Approach to Contract Preparation.
- More Due Diligence Required of Contractors.

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Scenario #2 - ROI:

BigCo is planning its annual employee incentive trip. Planner Sarah schedules a week in Paris at the Hotel Très Cher, and invites all employees, their spouses and children. The events include an all-expenses paid side trip for all spouses to Monte Carlo.

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Scenario #2 - Question

Will this Incentive Trip Comply With SOX Guidelines?

- A. Yes, because BigCo is a privately owned company.
- B. Yes, because none of BigCo's customers will participate in the event.
- C. No, because there is no business justification for using company money on spouses and extravagant activities unless there is ROI.
- D. No, because company auditors are not invited.

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SOX & Meeting Planning

- RFP With Minimum # of Bidders.
 - Review by Selection Committee.
 - Low Bids Favored.
- Layers of Expense Approvals Required.
- Greater Payment Delays, With Refusal to Pay Interest.

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SOX & Meeting Planning

- Incentives Must Justify Themselves by ROI.
- Spending Scrutinized for Appearances.
- Preferred Suppliers.
- Hotels Imposing & Enforcing Higher Cancellation Fees So Revenues Meet Projections.

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“SOX” Supplier Contracts

- Conflict of Interest Clause: No Benefit, Fee, Commission, Gift or Consideration of Any Kind to Supplier Except From Customer.
- Disclosure of *Insider* Relations With Subs and Third Party Vendors.
- Customer Payments Delayed As Long As Possible.

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Typical “SOX” Supplier Contract Provisions

- Suppliers Put in Between Client & Vendors.
- Supplier Responsible For Acts & Omissions of All Subcontractors & Vendors It Hires.
- Approval of Master Account Charges in Writing in Advance.

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“SOX” Supplier Contracts

- Supplier Compliance with Written Anti-Discrimination & Anti-Retaliation Policies.
- Compliance With Customer's Expense Policy.
- Non-Payment of Disputed Invoices.
- Rebates / Discounts / Credits Passed On to Customer.

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“SOX” Supplier Contracts

- Retention of Supplier Records.
- Right to Audit Records.
 - Includes Right to Interview Supplier Employees.
 - Right to Access Supplier's Own Audits & Computer System.

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Due Diligence Requirements

- Planners Must Ensure Meeting Safety and Assume Responsibility for Contractor Performance.
- Due Diligence on Meeting Location & Contractor Integrity.
- Protection of Confidential Information, Customer Data & Intellectual Property.

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Alcoholic Beverage Policies

- Companies Look to Control Drinking, Limit Liability.
- Common Elements:
 - Designation of Responsible Company Official.
 - Carding Potential Underage Guests.
 - Strict Start & End Times.
 - Insurance Requirements.

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Alcoholic Beverage Policies

- Host Establishment Must Have Proper Licenses, Agree to Strictly Enforce Laws.
- Self-Service Alcoholic Beverages Prohibited.
- Designated Drivers / Taxis Available.
- Promptly Document Incidents.

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Data Security Issues

- Access to Wireless Networks.
 - Unauthorized Users Within Signal Range.
 - Ability to Access Data Without Permission.
- Unauthorized Disbursement of Data to Unintended Recipients.
- Hackers Into System.
 - Stealing or Corrupting Data.

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Scenario #3 – Due Diligence

Planner Sarah recommends Lush Resort for BigCo's marketing summit. The contract calls for the Resort to provide usual levels of hotel security. At the meeting BigCo's executives leave CD's containing customer lists and valuable marketing data in their rooms. After several CD's are stolen, Sarah learns that the Resort has a history of room thefts. The marketing information in the stolen CD's is worth millions of dollars.

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Scenario #3 - Question

Did BigCo violate SOX guidelines when the thefts occurred?

- A. Yes, because Sarah failed to comply with her fiduciary duty to learn what was needed to protect the valuable data.
- B. Yes, because any theft is a "de facto" SOX violation.
- C. No, because the hotel was responsible for protecting against theft in guest rooms.
- D. No, because the data was lost through theft, an illegal act that was outside BigCo's control.

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SOX Responsibility for Data

- Investigate Safe Ways to Disseminate.
- Check for Prior Issues at Venue.
- Create Barriers to Access:
 - Wireless Networks.
 - Wired Networks.
 - Internet Kiosks/Cafes.
 - Webcasts / Video Conferences.

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Additional Data Measures

- Install Protections Against Hackers & Viruses.
- Limit Wireless Reception Area.
- Check Tech Vendor's Credentials & Track Record.
- Anticipate What Can Go Wrong.

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Meetings Outside U.S.

- SOX Still Applies to Activities of US Companies & Associations.
- "Foreign" Hotels, Planners & Suppliers Will Be Unfamiliar With Requirements.
- Clear Contracts With Comprehensive Compliance Obligations a Must.
- Designate Responsible Person to Oversee Compliance.

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Summary – What Everyone Should Do in a "SOX" World

- Consider How Your Actions Appear to an Outsider – the Best Decisions?
- All Companies & Assns, Planners & Suppliers Should Disclose Information Relevant to Decision-Making & Oversight Duties.

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More "SOX" Mandates

- Make Certain Adequate Safeguards Are In Every Contracts to Justify Decision-Making & Prevent Issues.
- Understand Every Contractual Provision, Particularly Obligations to Comply With Laws.

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Questions & Answers

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