



Issue Editor:

Charles J. Morton, Jr.
cjmorton@Venable.com
410.244.7716

Venable attorneys produce periodic alerts and newsletters covering a variety of topics and practice areas. For your convenience, we have assembled below a collection of the latest alerts and newsletters from May 2014.



SEC Warns Private Equity Fund Advisers about Compliance Shortcomings

Andrew J. Bowden, Director of the Securities and Exchange Commission's Office of Compliance Inspections and Examinations, delivered remarks at the [Private Equity International 2014 Compliance Forum](#). His speech, titled "Spreading Sunshine in Private Equity," should be required reading for all private equity fund advisers according to Venable attorneys [Michael R. Manley](#), [William F. Herrfeldt](#), [Scott E. Gluck](#), [Ronn S. Davids](#), [Parker B. Morrill](#), [Charles J. Morton, Jr.](#), and [W. Bryan Rakes](#).

Click to find out why [private equity fund advisers are strongly urged to review their compliance procedures and fund documents](#) to ensure they are complying with their obligations under the Advisers Act.

Why the 50 Percent Rule Deserves 100 Percent Attention

Some recent GAO bid protest decisions reveal that the 50 Percent Rule is being interpreted differently after the Small Business Act was amended by the 2013 National Defense Authorization Act (NDAA). As a result, write Venable attorneys [Keir X. Bancroft](#), [Christina K. Kube](#), and [Anna E. Pulliam](#), small businesses must clarify with their agency customers how the 50 Percent Rule will be applied to the cost of labor and materials under their contracts.

Click to read why small business prime contractors and their team members should [pay careful attention to how the "50 Percent Rule" applies to their proposals and contracts](#).

Exactly How Much Omega-3 Is in There?

The FDA recently issued a [Final Rule](#) prohibiting certain "nutrient content claims" for docosahexaenoic acid (DHA), eicosapentaenoic acid (EPA), and alpha-linolenic acid (ALA) omega-3 fatty acids. Venable attorneys [Todd A. Harrison](#), [Claudia A. Lewis](#), [Michelle C. Jackson](#), [Heili Kim](#), [Kristen R. Klesh](#), and [John G. Moore](#) write that it is uncertain whether these actions will protect the public health and that First Amendment issues may be raised under this Final Rule.

Click to see why food and dietary supplement companies with products that include omega-3 fatty acid nutrient content claims should begin to [assess compliance with the Final Rule](#).

Nonprofits and Celebrity Endorsements: Common Legal Pitfalls and Practical Tips

In order to use a celebrity's name or likeness to advertise, promote, or endorse a nonprofit organization, it is imperative that the nonprofit obtain the celebrity's permission and authorization, writes Venable attorney [William J. Briggs, II](#). Absent permission and authorization, a nonprofit organization can be held liable for its use of a celebrity's name or likeness.

Click for a review of the [general rules of celebrity endorsements](#).

Cape Wind District Court Ruling Illustrates Challenges

Faced in Coordinating Large-Scale Development across Multiple Agencies, Resources and Statutes

The proposed Cape Wind Project is the first offshore wind project of its kind in the United States, and one of the largest offshore wind projects in the world. The project has faced fierce opposition from local residents, environmental groups, and Native American tribes since the proposal's inception in 2000. The project, write Venable attorneys [David G. Dickman](#), [Margaret K. Kuhn](#), and [Laura E. Boorman](#), was required to obtain numerous regulatory approvals and permits from several Federal agencies under numerous environmental and safety laws, and the regulatory processes required to obtain these approvals and permits presented numerous avenues for project opponents to legally challenge the project.

Click for a summary of the ruling and [what it means for future large-scale infrastructure projects](#).

Lessons from the FTC's Latest Lead Generation Enforcement Action

The Federal Trade Commission recently announced a settlement of a lead generation enforcement action. The settlement, write Venable attorneys [Jonathan L. Pompan](#) and [Suzanne Fay Garwood](#), reflects that the FTC remains focused on lead generation and, more specifically, mortgage advertising, even though it shares enforcement authority for nonbank mortgage advertising with the Consumer Financial Protection Bureau.

Click to see why [lead generators and buyers need to review advertising and marketing for compliance](#) with applicable laws and regulations.

The Eleventh Circuit Defines "Instrumentality" of a Foreign Government under the Foreign Corrupt Practices Act

The FCPA prohibits paying, offering, or promising something of value to officials of foreign governments in order to obtain or retain business. Venable attorneys [William H. Devaney](#) and [Joanna P. Breslow Boyd](#) write that the Eleventh Circuit upheld the convictions of Joel Esquenazi and Carlos Rodriguez, former executives for Terra Communications. Esquenazi and Rodriguez had been convicted of paying bribes to officials of Haiti Teleco, Haiti's state-owned telecommunications company and argued on appeal that the trial court erred in its instruction to the jury on the definition of "instrumentality" of a foreign government.

Click to read about the decision and [how it could affect future FCPA rulings](#).

CFPB Issues Its Spring 2014 Supervisory Highlights Report with a Focus on Nonbank Examination Findings

The Consumer Financial Protection Bureau released its [Spring 2014 Supervisory Highlights](#) report, which addresses the agency's supervisory activities spanning November 2013 to February 2014. Venable attorney [Allyson B. Baker](#) writes that the report focuses on the Bureau's nonbank supervisory efforts and in particular on its examination findings in three industries: consumer reporting agencies; debt collection; and short-term, small dollar lending (or payday lending).

Click for a [complete review of the report](#).

Maryland Governor Signs Estate Tax Changes into Law

Governor O'Malley signed a bill increasing the amount of wealth that can pass to heirs free of Maryland estate tax, the amount known as the applicable exclusion, write Venable attorneys [Jeffrey K. Gonya](#), [Jennifer A. Pratt](#), and [Sarah H. B. Kahl](#). Prior to the passage of this new law (and for the balance of 2014), the applicable exclusion is \$1,000,000, meaning that \$1,000,000 can pass to heirs free of Maryland estate tax.

Click for an overview of the [gradual increases to the applicable exclusion](#).

Governor O'Malley Signs New Parental Leave Law Expanding Requirements for Maryland Small Businesses

Governor Martin O'Malley signed the Maryland Parental Leave Act into law, write Venable attorneys

[Ronald W. Taylor](#) and [Sandi Pessin Boyd](#), expanding compliance requirements for Maryland small business owners beyond the current requirements of the federal Family and Medical Leave Act.

Click to see how the new law [exposes small business owners to new burdens and potential litigation](#) as employers and employees adjust to the newly expanded parental leave rights.

Upcoming Events

Opus Connect: A Conversation with LPs on Investing in and Selecting Emerging Fund Managers in Private Equity

Tuesday, June 10, 2014 | 11:30 a.m. - 1:30 p.m. PT

This panel discussion will feature representatives from leading and niche institutional investors, advisors and family offices. The panelists will provide perspective on what is top of mind for LPs and how has this changed over the past five years; insight into LP perspectives and expectations; the current state of fundraising (particularly for smaller funds and for emerging managers; and the current market with respect to valuations, rates and risk of a near-term major correction.

[Click here for more information and to register.](#)

Performance Management and Discipline in Nonprofits: Common Pitfalls, Unique Challenges, Effective Solutions

Wednesday, June 18, 2014 | 12:00 p.m. - 2:00 p.m. ET

It is hard to tell an employee they are not performing well – and even harder to tell them they are fired. But it is much worse when these difficult situations and conversations are not handled in the right way (or, even worse, not handled at all). Learn how to utilize various (and some often overlooked) tools to proactively minimize the risk of legal action while empowering your nonprofit organization to effectively manage its workforce and meet its operational needs.

[Click here for more information and to register.](#)

An *American Lawyer Global 100* law firm, Venable serves corporate, institutional, governmental, nonprofit and individual clients throughout the U.S. and around the world. Headquartered in Washington, DC, with offices in California, Maryland, New York, and Virginia, Venable LLP lawyers and legislative advisors serve the needs of our domestic and global clients in all areas of corporate and business law, complex litigation, intellectual property, regulatory, and government affairs. To learn more about Venable's capabilities, please see our complete list of [practice areas](#).

Venable's Corporate Group attorneys have been [nationally and regionally ranked](#) in *Chambers USA*, *Chambers Global*, *Super Lawyers*, *Legal 500*, and *U.S. News - Best Lawyers*.

[If you have friends or colleagues who would find this alert useful, please invite them to subscribe at \[www.Venable.com/subscriptioncenter\]\(http://www.Venable.com/subscriptioncenter\).](#)

CALIFORNIA DELAWARE MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

© 2014 Venable LLP. This alert is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address. ATTORNEY ADVERTISING.

575 7th Street, NW, Washington, DC 20004

© 2014 Venable LLP | www.Venable.com | 1.888.VENABLE