

**BOS**  
**Day to Day Filing Issues – List Serve Discussion**

**1. Annual Corporate Minutes Compliance – Fraudulent Notices**

**Original Email to BOS List Serve:**

“If any of you have had the experience of dealing with "Annual Corporate Minutes Compliance Notice" solicitation, please let us here in Illinois know your experience and how you responded. It is my understanding from going out on google that other states have been targeted and this has been going on for some time. In the past two days we have had numerous business owners as well as law firms calling to ask if they needed to file this form with our office. Yesterday, a customer came into our office and tried to file this document with one of our employees.”

**Questions for Discussion:**

- Have you seen this type of notice in your jurisdiction?
  
- How has your office responded to the notice?
  - Communicate with the entity directly?
  - Refer to the AG’s office for investigation?
  - How do you advise customers to handle the notice?
  
- Has your office experienced a change in the form of the notice?
  - Did the entity change its name, address to avoid being caught?
  
- If you have referred the issue to the AG’s office, what resulted from the AG’s investigation?
  - How did the AG handle the investigation?
  - What consequences?
  
- Should IACA adopt a model approach to such notices?

**2. Rejected Filings and Fees**

**Original Email to BOS List Serve:**

“We have a few questions regarding rejected filings and associated fees. If you have any other thoughts about handling these issues, please share.

1. When a filing is rejected what happens to the fee?
2. If the fee is kept can it be re-applied to the corrected and returned document? If so, how is the corrected and returned filing reconnected to the previously accepted fee?
3. If the fee is returned to the customer, when/how is it returned? Is the fee deposited and a refund issued? Or is the fee returned with the rejected filing?

4. If a refund is issued what is your refund process?"

**Additional Questions for Discussion:**

- How are overpayments handled? Refund above a certain amount? No refund? Refund the entire overpayment?

**3. Communicating Annual/Biennial Filing Requirements**

**Original Email to BOS List Serve:**

"How do you communicate, if at all, an entity's obligation to file a biennial/annual report with your office? Do you:

1. Send a paper notice to the entity, the agent or both?
2. Send an email or other electronic notification to the entity, the agent or both?
3. Provide an XML notification to the agent?
4. No notice?
5. Other?"

**Questions for discussion:**

- Is your approach a matter of statute? Rule? Policy?
- How do you handle returned mail?
  - Do you attempt to locate a legitimate address and re-send the notice?
    - E.g., obtain address from other state agency (tax department), google, etc.?
  - Do you keep a record of the notice being returned in the event that corporation later claims no notice was received? If so, how?
- Is notice of administrative dissolution/cancellation handled in the same manner?

**4. Name Availability Standards – Assumed, Alternate or Fictitious Names**

**Original Email to BOS List Serve:**

"I have been asked to respond to a proposed legislative bill that will regulate Alternate Name filings. In short the bill would require the filing office to follow the same name criteria for Alternate names that we currently use for new entity filings. Under this proposed bill there will be no duplicates of Alternate Names. I am wondering what if any review criteria is in place in your filing offices. I am especially interested in knowing if your office applies availability criteria and/or if there are any restrictions on Alt name usage, and how the criteria/restrictions are enforced."

**Questions for Discussion:**

- What name availability standard is used in your jurisdiction? Distinguishable upon the records?
  
- Are alternate, assumed and/or fictitious names required to be “distinguishable upon the records” from other names already on file?
  - If so, is that based on a statute, administrative rule or policy?
  - If not, have you received customer complaints/concerns?
  
- Should these names be required to be distinguishable?
  - What is the benefit/detriment to customers already on file if these types of names are not required to be distinguishable?

**5. Doing Business Without Registering**

**Original Email to BOS List Serve:**

“In Nevada, every artificial person (corporation, LLC, etc) is required to either be registered (domestic) or qualified to do business (foreign) with the Secretary of State. We are looking at revising some antiquated and inefficient provisions in our statutes relating to those who fail to register or qualify? I would appreciate your input on the following?”

1. Does your office have any enforcement mechanism for those entities not properly registered or qualified?
2. If so, how is this accomplished?
3. If not, how are complaints handled?
4. What is the penalty for not being properly registered or qualified?
5. Do you have any other comments that may be helpful in understanding your processes?”

**Additional Questions for Discussion:**

- If your office does not have enforcement power, what office does? AG?
- Do you have authority to refer matters to the AG?
- Do your laws permit enforcement against a domestic entity as well as a foreign?

**6. Profane Words in Business Names**

**Original Email to BOS List Serve:**

“If your state rejects for profane words, do you have a listing? We are attempting to create a naming algorithm that would preclude these words and was hoping someone might have a comprehensive list.”

**Additional Questions:**

- Do you have a list of profane words? How did you compile the list?
- Why do you reject for profanity – Statute? Rule? Policy?
- Is there a 1<sup>st</sup> Amendment problem here?