

801.1(b)

Verne, B. Michael

From: [REDACTED]
Sent: Thursday, May 17, 2007 4:03 PM
To: Verne, B. Michael
Subject: question

Mike:

Thought I'd email you instead of calling. A and B (husband and wife) are the only members in a nonprofit corporation (nonstock), and the by-laws allow them to designate replacement members. Neither of them has the right to assets upon dissolution, or profits. Do they nevertheless "control" the nonprofit either through a literal reading of the term or because of 801.1(b)(2)? The latter would seem to require that by-laws be treated as synonymously with a "contract."

Thanks, Mike.

[REDACTED]

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Yes - they would control. A right to designate replacement directors in the by-laws is treated the same as a contractual right.

BW
5/18/07