

# E K M A R K & E K M A R K, L.L.C.

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When an association holds an election or a vote, a question sometimes arises as to whether the association has a duty to “verify” the signatures on ballots or consent forms received from the association members. The Nonprofit Corporation Act provides that if the name signed on the ballot or consent form corresponds to the name of a member, the association, if acting in good faith, is entitled to accept the ballot or consent form and give it effect as the act of the member. This means that, in general, the only step the association needs to take to verify ballot and consent forms is to make sure that the name signed on such forms matches the name of an association member, so long as the association is acting in good faith. If, however, the association has reason to believe there may be fraud or suspects something suspicious in the manner of execution or delivery of a form, the association should investigate further to ensure that such form is legitimate and proper.

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