THE UNIVERSITY OF TEXAS SCHOOL OF LAW
PHILANTHROPY SOUTHWEST

35TH ANNUAL

NONPROFIT ORGANIZATIONS INSTITUTE

WORKSHOP
January 17, 2018

INSTITUTE
January 18–19, 2018

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2018 NONPROFIT ORGANIZATIONS LITERACY WORKSHOP

A Guide to Key Principles for Nonprofit Organizations

January 17, 2018 ▪ Four Seasons Hotel ▪ Austin, Texas

Earn up to 4.00 Hours of MCLE Credit; Approved in TX, CA, and OK (Expected in OH); TX Legal Specialization Credit Approved for Estate Planning and Probate Law, and Tax Law; Earn up to 5.00 Hours of CPE Credit (NASBA)

WEDNESDAY AFTERNOON, JAN. 17, 2018

12:30 p.m. **Registration Opens** Includes light refreshments.

1:20 p.m. **Welcoming Remarks**

CONCURRENT SESSIONS

Please select one 1:30 p.m., one 2:45 p.m., one 4:00 p.m., and one 5:15 p.m. session on registration form.

NONPROFIT ORGANIZATIONS LITERACY (MAIN BALLROOM)

Presiding Officer: Coleith Molstad, The Roy F. & Joann Cole Mitte Foundation, Austin, TX

Understanding issues at the center of a nonprofit's operation is essential. These presentations focus on key areas for both private foundations and charitable organizations—governance, UBIT, investment, and financial statements—and outline basic concepts and practical guidance for practitioners.

IRS AUDIT WORKSHOPS (SMALL-GROUP BREAKOUTS)

An IRS audit won't happen to my organization, you say—until it does. Audit preparedness should be at the center of any good compliance regime for a Section 501(c)(3) public charity or private foundation, whether you're audited this year or in 2030. In these small-group breakouts, review the basics of an IRS audit and gain practical advice on preparing for, understanding, managing, and ultimately surviving the audit process.

Coordinated by: Megan E. Bell, Patterson Belknap Webb & Tyler LLP, New York, NY

1:30 p.m.
1.00 hr

1A: Governance Literacy
Governance at nonprofit organizations is often not a priority until something goes wrong. Gain practical tips to help board and staff members avoid problems, and review governance topics including fiduciary duties, governing documents, policies, procedures, and the roles of the board, officers, committees, and staff members.

Meredith S. Camp, Wells Fargo Bank, Dallas, TX

1B: IRS Audit Workshop: Public Charities
Space is limited

1C: IRS Audit Workshop: Private Foundations
Space is limited

2:30 p.m. **Break**

2:45 p.m.
1.00 hr

2A: UBIT Literacy: Your're doing WHAT??
Hear the basics of Unrelated Business Income, including the definition, exceptions, and issues relating to advertising and sponsorship. Examine how much is too much UBI, plus key traps for the unwary.

Michaela J. Cromar, CliftonLarsonAllen LLP, Fort Worth, TX
Rosalinda Marikar, CliftonLarsonAllen LLP, Fort Worth, TX

2B: IRS Audit Workshop: Public Charities
Space is limited

2C: IRS Audit Workshop: Private Foundations
Space is limited

3:45 p.m. **Break**

4:00 p.m.
1.00 hr

3A: Investment Literacy
Developing and maintaining a successful investment program that supports the mission and withstands challenging market environments requires the right mix of governance and portfolio management discipline. Review the fiduciary underpinnings, board considerations and policies, and key investment concepts that contribute to an effective investment strategy.

Karey Dubiel Dye, Goldman Sachs & Co. LLC, Houston, TX
Stephanie Kenary, Goldman Sachs & Co. LLC, New York, NY

3B: IRS Audit Workshop: Public Charities
Space is limited

3C: IRS Audit Workshop: Private Foundations
Space is limited

5:00 p.m. **Break**

5:15 p.m.
1.00 hr

4A: Financial Statements Literacy
Understanding financial statements is the key to understanding the financial health of your organization. Review the basic financial statements (statement of net assets, statement of changes in net assets, and statement of cash flows) and common disclosures. A look at NFP-specific accounting, including donor restrictions, net assets classes, functional expenses, and new guidance.

Jillian Bergman, Holtzman Partners, LLP, Austin, TX
Ruth Snell, Holtzman Partners, LLP, Austin, TX

4B: IRS Audit Workshop: Public Charities
Space is limited

4C: IRS Audit Workshop: Private Foundations
Space is limited

6:15 p.m. **Adjourn to Reception**

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Frost BANKING INVESTMENTS INSURANCE

6:15 p.m. – 7:15 p.m.

Join us for a networking opportunity with faculty and colleagues.

THURSDAY MORNING, JAN. 18, 2018

Presiding Officer:
Tomer Inbar, Patterson Belknap Webb & Tyler LLP, New York, NY

7:30 a.m. **Registration Opens**
Includes continental breakfast.

8:20 a.m. **Welcoming Remarks**

8:30 a.m. 1.00 hr

A View of the Sector
An overview of the key trends and legislative and regulatory developments affecting tax-exempt organizations, plus what we can expect on the horizon.

Alexander L. Reid, Morgan, Lewis & Bockius LLP, Washington, DC
David A. Shevlin, Simpson Thacher & Bartlett LLP, New York, NY

9:30 a.m. .75 hr

Disaster Relief: What a Nonprofit Needs to Know When Disaster Hits Your Community
Hear an overview of the relevant rules on disaster relief and current IRS guidance and the legal and practical challenges for non-profits providing relief and managing fundraising in the wake of a disaster.

Moderator:
Robin Krause, Patterson Belknap Webb & Tyler LLP, New York, NY

Panelists:
Lori Fey, Rebuild Texas Fund, Austin, TX
Stephen D. Maislin, Greater Houston Community Foundation, Houston, TX

10:15 a.m. **Break**

CONCURRENT TRACKS

1A: PHILANTHROPY

Presiding Officer:
Jody Blazek, Blazek & Vetterling, Houston, TX

10:35 a.m. .75 hr

Structuring Private Philanthropy: The Private Foundation and Beyond
Many donors are looking for the biggest "bang for their buck"; they want to increase the impact of their charitable activities, and they want to change the world, in big or small ways. This may still be done by forming a private foundation and making grants or operating projects. However, there are many more tools available in the tool box, from LLCs, to for-profit joint ventures, to program-related and mission-related investments.

James P. Joseph, Arnold & Porter Kaye Scholer LLP, Washington, DC

11:20 a.m. .75 hr

Family Offices and Private Foundations: Exploring the Tensions
A discussion of the legal, practical, and financial issues that arise in the family office philanthropy context, including sharing space and people, conflicts of interest, self-dealing, co-investing, excess business holdings, and the need to put in place appropriate processes and procedures.

Carolyn O. "Morey" Ward, Ropes & Gray LLP, Washington, DC

12:05 p.m. **Pick Up Lunch**
Included in registration.

1B: FUNDRAISING AND PLANNED GIVING

Presiding Officer:
Tomer Inbar, Patterson Belknap Webb & Tyler LLP, New York, NY

10:35 a.m. .75 hr

Fundraising Trends, Ventures, and Traps for the Unwary
As fundraising evolves, new and old models compete for dollars while facing the scrutiny of state and federal regulatory regimes.

Jonathan S. Blum, Polsinelli PC, Dallas, TX

11:20 a.m. .75 hr

Planned Giving Techniques and Structures
A review of planned giving techniques from the basic to the complex. What should organizations consider when they are thinking of rolling out a planned giving program and managing it?

John Sare, Patterson Belknap Webb & Tyler LLP, New York, NY

12:05 p.m. **Pick Up Lunch**
Included in registration.

THURSDAY AFTERNOON

Presiding Officer:
Joyce Hellums, Ernst & Young, LLP, Austin, TX

LUNCHEON PRESENTATION

12:35 p.m. .75 hr

A View from the Attorney General's Office
The Attorney General protects the public's interest in charitable organizations. Hear topics of interest from the regulator's perspective.

Susan K. Staricka, Office of the Attorney General, Austin, TX

1:20 p.m. **Break**

1:35 p.m. 1.00 hr

GC/CFO Roundtable: Risk Management Tools to Prepare for the Unexpected
A discussion on the common risk areas for nonprofits and how to mitigate these risks, including ideas to help nonprofits manage unexpected risks, such as natural disasters and embezzlement.

Moderator:
Nicola Fuentes Toubia, Fuentes Toubia, PLLC, Houston, TX

Panelists:
Katherine Karl, The Humane Society of the U.S., Washington, DC
Ellen Taus, The Rockefeller Foundation, New York, NY
Ellen D. Willmott, The Susan G. Komen Breast Cancer Foundation, Inc., Dallas, TX

2:35 p.m. **Break**

CONCURRENT TRACKS

2A: FUNDING CONCERNS FOR PRIVATE FOUNDATIONS

Presiding Officer:
Andrea L. March, Texas Rio Grande Legal Aid, Austin, TX

2:55 p.m. .75 hr

Funding Advocacy: A Roadmap for Private Foundations

Take that "no lobbying" language out of your private foundation grant agreements! Or at least some of them. Explore various ways in which 501(c)(3) private foundations may make grants that support lobbying and other types of advocacy.

John Pomeranz, Harmon, Curran, Spielberg + Eisenberg, LLP, Washington, DC

3:40 p.m. .75 hr

Funding Individuals and Intermediaries

Hear an overview of the particular concerns for private foundations when making investments in individuals, with a focus on the tax law requirements for individual grant programs, the special rules for grants for travel, study, or other similar purposes, and how to structure individual grant programs that are administered by public charity intermediaries.

Nishka Chandrasoma, Ford Foundation, New York, NY

4:25 p.m. Break

2B: DONOR ADVISED FUNDS AND IMPACT INVESTING

Presiding Officer:
Norman E. Nabhan, Graystone Consulting, Houston, TX

2:55 p.m. .75 hr

Donor Advised Funds, Supporting Organizations, and Fiscal Sponsors

Increasingly, private foundations, corporations, and individuals are working through DAF's, fiscal sponsors and other intermediaries to increase efficiency, enhance effectiveness, and reduce risk. Explore the various options, how to properly structure them, the compliance advantages of doing so, and common situations where working through intermediaries is common, including international grantmaking, grants to individuals, funder collaboratives, and PRI's.

Andrew Schulz, Arabella Advisors, Washington, DC

3:40 p.m. .75 hr

Investing in the Future: Impact Investing by Nonprofit Organizations

Explore what it means to be an impact investor, including the current state of impact investing by nonprofit organizations. Hear a discussion on the relationship between mission-related and program-related investments, the prudent investor rules applicable to nonprofit organizations under UPMIFA and to charitable trusts under applicable trust law, as well as the extent to which officers and directors may consider the relationship between an investment and a tax-exempt purpose when making investment decisions.

David A. Levitt, Adler & Colvin, San Francisco, CA
M. Ruth M. Madrigal, Steptoe & Johnson LLP, Washington, DC

4:25 p.m. Break

CONCURRE

3A: 501(C) POTPOURRI

Presiding Officer:
Andrea L. March, Texas Rio Grande Legal Aid, Austin, TX

4:35 p.m. .75 hr

Faith Based Philanthropy: Churches and Other Religious Organizations

Learn about the qualification requirements for churches, associations of churches, mission societies, integral agencies, and integrated auxiliaries and the special federal tax law provisions that apply to them, including church audit protections and unique rules for religious group exemptions. Discuss faith-based advocacy, from the fate of the "Johnson Amendment," to ways that religious organizations can participate in affecting policy and legislative change.

Matthew Giuliano, United States Conference of Catholic Bishops, Washington, DC
Frank Sommerville, Weycer Kaplan Pulaski & Zuber, P.C., Arlington, TX

5:20 p.m. .75 hr

Avoiding Drama in the 501(c) Family: Managing Relationships Between Charities, Social Welfare Organizations, Labor Unions, and Business Leagues

Understand the exemption requirements of other major types of 501(c) entities, specifically 501(c)(4) social welfare organizations, 501(c)(5) labor unions, and 501(c)(6) business leagues. Discuss how to manage interactions between different types of tax-exempt entities, including grant management, expense allocation, and political and lobbying activities.

Kimberly M. Eney, Morgan, Lewis & Bockius LLP, Washington, DC
Justin J. Lowe, Ernst & Young LLP, Washington, DC

6:05 p.m. Adjourn to Reception

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Delivery Method: Group-Live

Program Level: Overview

Advance Preparation: None

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Earn up to 17.50 Hours of CPE Credit (NASBA)

Delivery Method: Group-Live

Program Level: Overview

Advance Preparation: None

NT TRACKS

3B: INTERNAL CONTROLS AND INSURANCE

Presiding Officer:
Norman E. Nabhan, Graystone Consulting, Houston, TX

4:35 p.m. **.75 hr**

Internal Controls: Does One Size Really Fit All?
Internal controls are a necessary and essential component of any nonprofit organization's operations, but should every entity's processes and procedures fit and feel the same? An auditor and auditee provide their perspectives on what they look for to ensure sound internal controls, including the things that are non-negotiable when it comes to internal controls, as well as how you can keep your internal control system flexible without losing effectiveness or risking reportable internal control deficiencies or audit issues.

Paula Campbell, Goodwill Central Texas, Austin, TX
Dena Jansen, Maxwell Locke & Ritter, Austin, TX

5:20 p.m. **.75 hr**

I Delayed Attending Happy Hour for This? Risk Management and Insurance Recommendations for Non-Profit Organizations
Not all problems are best solved by purchasing insurance, then closing your eyes and crossing your fingers. Discuss the steps of the risk management process (identify, evaluate, mitigate/avoid, transfer) and how to best employ that process into your organization's overall operations to maximize your mission while helping everyone sleep better at night.

Mark Frederiksen, Frederiksen & Frederiksen, Dallas, TX

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- 7:00 p.m.
with program faculty and attendees.

FRIDAY MORNING, JAN. 19, 2018

Presiding Officer:
Jody Blazek, Blazek & Vetterling, Houston, TX

7:30 a.m. Conference Room Opens
Includes continental breakfast.

8:00 a.m. **.75 hr**

Texas Nonprofits in the Public Forum and Legislative Process
Texas nonprofits of all sizes and varieties have become more active in the public forum and in the legislative process to advance their missions and the interests of their constituents. How effective are these activities and how does the "nonprofit sector" rank among the other special interest groups that occupy the policy and political landscape?

Richard W. Meyer, Attorney at Law, Austin, TX
Ross Ramsey, The Texas Tribune, Austin, TX

8:45 a.m. **1.00 hr**

Year in Review
Review current developments in the federal tax law, including recently passed and pending legislation, regulations, IRS rulings, and court opinions. Focus on the TE/GE fiscal year 2017 work plan, qualification for tax exemption, application for recognition processes and recent litigation, public charity status in general, supporting organizations, donor-advised funds, endowments, the commerciality doctrine, private foundation rules, governance, private inurement and private benefit, legislative and political campaign activity, unrelated business, joint ventures, charitable giving, and recent audits of the IRS by the General Accountability Office.

Bruce R. Hopkins, Bruce R. Hopkins Law Firm, Kansas City, MO

9:45 a.m. **Break**

CONCURRENT TRACKS

4A: IP AND PRIVACY ISSUES

Presiding Officer:
Nicola Fuentes Toubia, Fuentes Toubia, PLLC, Houston, TX

10:05 a.m. **.75 hr**

Creative Commons, Open Source, and the IP All Around Us
Intellectual property rights are constantly evolving and there are a number of key concepts that are important to understand when advising a nonprofit. Examine recent trends including open source and creative common licensing, fair use, and similar issues.

Edward A. Cavazos, Pillsbury Winthrop Shaw Pittman LLP, Austin, TX

10:50 a.m. **.75 hr**

Keeping an Eye on Privacy and Data Protection Risks
Gain practical tips for reducing the data privacy and protection risks faced by nonprofits.

Wendell J. Bartnick, Reed Smith LLP, Houston, TX

11:35 a.m. **Pick Up Lunch**
Included in registration.

4B: OUTCOME BASED PHILANTHROPY/SOCIAL MEDIA

Presiding Officer:
Rachel Luna, Southwest Key Programs, Austin, TX

10:05 a.m. **.75 hr**

Outcome Based Philanthropy: Thinking About and Measuring Impact in an Increasingly Complex World and Why It Matters
Learn strategies for incentivizing grantees and other partners against a shared set of programmatic objectives through outcome-based funding and agreement terms, and the related tax implications.

Karen M. Halazon, Bill & Melinda Gates Foundation, Seattle, WA

10:50 a.m. **.75 hr**

The Risks and Rewards of Social Media
Explore which social media tools and channels might be right for your organization, the communication and legal risks inherent in social media usage, and helpful strategies to mitigate those risks.

Edward T. Chaney, Schell Bray PLLC, Chapel Hill, NC
Meredith Young, Michael & Susan Dell Foundation, Austin, TX

11:35 a.m. **Pick Up Lunch**
Included in registration.

FRIDAY AFTERNOON

Presiding Officer:
Lucille DiDomenico, Philanthropy Southwest, Dallas, TX

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12:05 p.m. .75 hr

Taking Cybersecurity Seriously

Nonprofit organizations of all sizes have sensitive information that needs to be protected—and increasingly, organizations need to be ready to respond when (not if) a data breach occurs. In this session, attendees learn about the most recent cyber threats they face, the costs associated with those threats, and what they can do to help protect their organizations in an increasingly insecure landscape.

John E. Ansbach, Stroz Friedberg, Dallas, TX

12:50 p.m. Break

1:05 p.m. 1.00 hr ethics

My Employee Did What?: Identifying and Mitigating Employment Risk

An ounce of prevention is worth a pound of cure but some employee issues simply can't be prevented. Learn how an employer can put itself in the best position to respond to the unexpected employee emergency, including identifying employment risk, mitigation tools and strategies, managing an employment-related investigation, having the right policies and procedures in place, and preparing and using a crisis checklist.

Michael J. Golden, Boulette Golden & Marin L.L.P., Austin, TX

2:05 p.m. Break

CONCURRENT TRACKS

5A: PUTTING THINGS TOGETHER AND TAKING THINGS APART

Presiding Officer:
Mia Hsu Burton, Michael & Susan Dell Foundation, Austin, TX

2:25 p.m. .75 hr

Putting Things Together: Subsidiaries, Complex Organizational Structures, Joint Ventures, and Joint Funding Vehicles

Whether scaling to increase greater impact, engaging in joint ventures or collaborative efforts with others, or needing to address unrelated business income or risk to exemption, charities often find themselves looking to structure their operations through subsidiaries, affiliates, and other joint venture vehicles. Review the entities available while taking a closer look at questions to consider in choosing the best option providing examples of different structures.

John F. Crawford, Ernst & Young LLP, Chicago, IL
Darren B. Moore, Bourland, Wall & Wenzel, P.C., Fort Worth, TX

3:10 p.m. .75 hr

Taking Things Apart: Unwinding Organizations, Ventures, and Collaborations

There are any number of reasons why efforts and enterprises come to an end. Then they need to be transitioned, transferred, merged into something else, spun out, or shut down entirely. Sometimes the end is precisely that, while other times it is a new beginning. Explore the key legal and practical issues to be addressed on this part of the journey, including tax, governance, creditors, employment, intellectual property, disposing of assets, and more. Consider who should address those issues and how.

Diara M. Holmes, Loeb & Loeb, Washington, DC
John Tyler, Ewing Marion Kauffman Foundation, Kansas City, MO

3:55 p.m. Adjourn

5B: FORM 990: THE NAUGHTY AND THE NICE

Presiding Officer:
Lucille DiDomenico, Philanthropy Southwest, Dallas, TX

2:25 p.m. 1.50 hrs

Form 990: The Naughty and The Nice

What can be the good and bad consequences for your organization of having its Form 990 publicly available and making audited financials available to funders who request them? Walk through the documents and hear from multiple perspectives on the key things that either worry or reassure them. What are "hot buttons" in Form 990 and audited financials that are likely to attract negative attention? What are signs of sound governance and compliance? What can a nonprofit do to present the best picture of itself?

Jody Blazek, Blazek & Vetterling, Houston, TX
Mimi Holt, Blazek & Vetterling, Houston, TX
Catherine E. Livingston, Jones Day, Washington, DC
Coleith Molstad, The Roy F. & Joann Cole Mitte Foundation, Austin, TX

3:55 p.m. Adjourn

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Includes electronic course materials and Wednesday evening welcome reception

Select Registration Type

- ❑ Individual registration by January 10 . . . . . $175
- ❑ Individual registration after January 10 . . . . . $225

Printed course binder available for an additional fee through January 10
Conference registration includes Electronic Course Binder Download (PDF) in "Your Briefcase" at utcle.org

- ❑ Printed Course Binder $27.06
  Price includes 8.25% Sales Tax
- ❑ Printed Course Binder for tax exempt registrants $25
  (e.g., government employees and nonprofits)

Select Workshop Concurrent Tracks, Wednesday at 1:30 p.m.
❑ 1A: Governance Literacy ❑ 1B: IRS Audit Workshop: Public Charities*
❑ 1C: IRS Audit Workshop: Private Foundations*

Select Workshop Concurrent Tracks, Wednesday at 2:45 p.m.
❑ 2A: UBIT Literacy ❑ 2B: IRS Audit Workshop: Public Charities*
❑ 2C: IRS Audit Workshop: Private Foundations*

Select Workshop Concurrent Tracks, Wednesday at 4:00 p.m.
❑ 3A: Investment Literacy ❑ 3B: IRS Audit Workshop: Public Charities*
❑ 3C: IRS Audit Workshop: Private Foundations*

Select Workshop Concurrent Tracks, Wednesday at 5:15 p.m.
❑ 4A: Financial Statements Literacy ❑ 4B: IRS Audit Workshop: Public Charities*
❑ 4C: IRS Audit Workshop: Private Foundations*

*limited capacity

Workshop Registration Total . . . . . $________

INSTITUTE—NO18 – JANUARY 18–19, 2018

Includes electronic course materials, Thursday and Friday luncheon presentations and Thursday evening reception

Select Registration Type

- ❑ Individual registration by January 10 . . . . . $595
- ❑ Individual registration after January 10 . . . . . $645

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- ❑ Printed Course Binder $37.89
  Price includes 8.25% Sales Tax
- ❑ Printed Course Binder for tax exempt registrants $35
  (e.g., government employees and nonprofits)

Select Institute Concurrent Tracks, Thursday at 10:35 a.m.
❑ 1A: Philanthropy ❑ 1B: Fundraising and Planned Giving

Select Institute Concurrent Tracks, Thursday at 2:55 p.m.
❑ 2A: Funding Concerns for Private Found ❑ 2B: Donor Advised Funds and Impact Investing

Select Institute Concurrent Tracks, Thursday at 4:35 p.m.
❑ 3A: 501(c) Potpourri ❑ 3B: Internal Controls and Insurance

Select Institute Concurrent Tracks, Friday at 10:05 a.m.
❑ 4A: IP and Privacy Issues ❑ 4B: Outcome Based Philanthropy

Select Institute Concurrent Tracks, Friday at 2:55 p.m.
❑ 5A: Putting Things Together and Taking Things Apart ❑ 5B: Form 990: The Naughty and The Nice

Institute Registration Total . . . . . $________

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- ❑ Printed Binder $275
- ❑ Audio Download (MP3) $175

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NP18-NO18

AUSTIN

January 17, 18–19, 2018

CONFERENCE LOCATION

Four Seasons Hotel
98 San Jacinto Blvd.
Austin, TX
512.685.8100

Special Room Rates Start at $263
good through December 17, 2017
reference "UT Law Nonprofits Institute"
(subject to availability)

Parking:
$12 daily self-parking; $16 valet
$45 overnight self or valet
(subject to change)

KEY DATES

January 10, 2018
last day for early registration
add $50 for registrations
received after this time

January 12, 2018
last day for cancellation (full refund)

January 15, 2018
last day for cancellation (partial refund)
$50 processing fee applied

January 17, 2018, 1:20 p.m.
Workshop begins

January 18, 2018, 8:20 a.m.
Institute begins

WORKSHOP AND INSTITUTE FACULTY

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Dallas, TX

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Houston, TX

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Holtzman Partners, LLP
Austin, TX

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