



**STATUTES
ANNOTATED**

2020

**Benevolent and Protective
Order of Elks of the U.S.A.**
A Fraternal Organization



**CONSTITUTION and
STATUTES ANNOTATED**

of the

**Benevolent and Protective Order of Elks
of the United States of America**

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Compiled and Edited by and under the Direction of the

**COMMITTEE ON JUDICIARY
2020-2021**

THOMAS M. ZISA, Chairman

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HISTORICAL BACKGROUND

Annotated Statutes of The Order

From the year 1871 until 1907, the legal and judicial affairs of the Order were handled by the Committee on Laws and Supervision and the Committee on Appeals and Grievances (1871-1891); by the Committee on Laws and Appeals and the Committee on Grievances (1881-1899); and, finally, by the Committee on Laws (1899-1907). The Grand Lodge Constitution of 1871 provided for the election of three Judges, but this provision was dropped in 1874.

At the Grand Lodge Session in Philadelphia in 1907, the framework of the present Constitution and Statutes became effective. Under Section 42, Statutes of the Order, the prior Committee on Laws was abolished and the Chairman of the Committee on Judiciary was empowered to render Opinions as Legal Advisor of the Grand Lodge and its members. Subordinate Forums were also provided for and the Grand Forum was created and authorized to render Decisions as the Judicial body of the Order.

The first Volume of Opinions and Decisions was prepared, edited and published on March 31, 1913, by Raymond Benjamin of California, then Chairman of the Committee on Judiciary, later Grand Exalted Ruler (1914-1915). This original Volume contained the Opinions of the original Committee on Laws up to 1907, together with a digest of Judiciary Committee Opinions and Grand Forum Decisions following the year 1907.

Again, in 1915, Judiciary Committee Chairman, Edward Rightor, of New Orleans (Grand Exalted Ruler 1916-1917), revised the Volume of Opinions and Decisions. The Volume was again brought up-to-date on September 1, 1917, by Frank L. Rain of Nebraska (Grand Exalted Ruler 1919-1920), then Chairman of the Judiciary Committee.

In 1924, John F. Malley, of Boston, Massachusetts (Grand Exalted Ruler 1927-1928), and originator of the Elks National Foundation, was Chairman of the Committee on Judiciary. On September 1, 1924, Brother Malley, after much research and effort, compiled in alphabetical order, with convenient Index, the prior Opinions and Decisions. He again brought these down to date on September 1, 1926.

The next revision was on September 1, 1936, while E. Mark Sullivan, of Boston, was Chairman of the Judiciary Committee, and later Grand Exalted Ruler (1942-1943). The 1936 issue was a consolidation of all prior Opinions and Decisions. The next Edition was compiled and published August 3, 1944, under Judiciary Committee Chairman Clyde E. Jones of Ottumwa, Iowa.

The first printed Edition of the present form of our Annotated Statutes was the result of a monumental task undertaken in 1950 by Earl E. James as Judiciary Committee Chairman, and later Grand Exalted Ruler (1953-1954). Brother James reviewed in excess of some 2,000 prior Opinions and Decisions, eliminated those which were outdated or inapplicable, and arranged them in proper order with reference to the Grand Lodge Constitution and Statutes. This 1950 Edition was revised, brought up-to-date and printed in 1955 under the direction of Judiciary

Committee Chairman H. L. Blackledge of Kearney, Nebraska (Grand Exalted Ruler 1957-1958).

The next Edition was prepared, edited and reprinted in 1961 under direction of Judiciary Committee Chairman Benjamin F. Watson, of Lansing, Michigan.

The 1966 Edition was revised and edited by John T. Raftis of Colville, Washington, Judiciary Committee Chairman in 1965, and the entire Index revised, all with the assistance of Glenn L. Miller of Logansport, Indiana, Judiciary Committee Chairman in 1966 (Grand Exalted Ruler 1970-1971), and with the assistance of Grand Secretary Franklin J. Fitzpatrick.

Subsequent annual reissues of the Annotated Statutes were revised and edited by succeeding Chairmen of the Grand Lodge Committee on Judiciary assisted by the Grand Secretary and staff as indicated below.

<u>Edition Year</u>	<u>Judiciary Chairman</u>	<u>Grand Secretary</u>
1967	Glenn L. Miller	Franklin J. Fitzpatrick
1968	Glenn L. Miller	Franklin J. Fitzpatrick
1969	Glenn L. Miller	Franklin J. Fitzpatrick
1970	Thomas A. Goodwin	Franklin J. Fitzpatrick
1971	Thomas A. Goodwin	Homer Huhn, Jr.
1972	Thomas A. Goodwin	Homer Huhn, Jr.
1973	Edward C. Alexander	Homer Huhn, Jr.
1974	Edward C. Alexander	Homer Huhn, Jr.
1975	George J. Balbach	Homer Huhn, Jr.
1976	George J. Balbach	Homer Huhn, Jr.
1977	George J. Balbach	Stanley F. Kocur
1978	Edward W. Connolly	Stanley F. Kocur
1979	Raymond V. Arnold	Stanley F. Kocur
1980	Raymond V. Arnold	Stanley F. Kocur
1981	Eugene F. Costello	Stanley F. Kocur

In 1980 it was determined that there should be a recodification of the Laws of the Order. Donald F. Nemitz, then a Justice of the Grand Forum, volunteered to act as Editor and devoted thousands of hours to this assignment. He was assisted by Robert J. Sabin, 1982-83 Chairman of the Grand Lodge Committee on Judiciary (Grand Exalted Ruler 1988-1989), and by the Law Subcommittee of the Advisory Committee, and the Statutes as recodified were adopted by the Grand Lodge assembled at its Session in Honolulu in 1983 and distributed to all Lodges without the accompanying Opinions and Decisions in the smaller Constitution & Statutes booklets, as had been done in 1981 and 1982 to accommodate the needs of the Order while this activity was taking place. Brother Nemitz then turned to annotating the Statutes with the applicable Opinions and Decisions, with the assistance of Seymour Nathanson, 1983-85 Chairman of the Judiciary Committee, the Law Subcommittee of the Advisory Committee and the Grand Forum. This additional task was completed in time to be included in the 1984 reissue of the Annotated Statutes. Annual reissues of the full Annotated Statutes thereafter were revised and edited by these succeeding Judiciary Chairmen assisted by the designated Grand Secretary and his staff as shown.

<u>Edition Year</u>	<u>Judiciary Chairman</u>	<u>Grand Secretary</u>
1984	Seymour Nathanson	Stanley F. Kocur
1985	Robert R. Bean	Stanley F. Kocur
1986	Robert R. Bean	Stanley F. Kocur
1987	John J. Delworth, Jr.	Stanley F. Kocur
1988	John J. Delworth, Jr.	Stanley F. Kocur
1989	Robert L. Earnest	James C. Varenhorst
1990	Robert L. Earnest	James C. Varenhorst
1991	Albert Maffei	James C. Varenhorst
1992	Albert Maffei	James C. Varenhorst
1993	David R. Bailly	James C. Varenhorst
1994	David R. Bailly	James C. Varenhorst
1995	Joseph H. Riley, Jr.	James C. Varenhorst
1996	Joseph H. Riley, Jr.	James C. Varenhorst
1997	James M. McQuillan	James C. Varenhorst
1998	James M. McQuillan	James C. Varenhorst
1999	David E. Nething	Jack M. Jensen
2000	David E. Nething	Jack M. Jensen
2001	Leon A. Karjola	Jack M. Jensen
2002	Leon A. Karjola	Jack M. Jensen
2003	James L. Nicholson	Jack M. Jensen
2004	James L. Nicholson	Jack M. Jensen
2005	Millard C. Pickering	Jack M. Jensen
2006	Millard C. Pickering	Jack M. Jensen
2007	Mark E. Huegel	Jack M. Jensen
2008	Mark E. Huegel	Bryan R. Klatt
2009	Thomas S. Brazier	Bryan R. Klatt
2010	Priscilla Anne Schwab	Bryan R. Klatt
2011	Priscilla Anne Schwab	Bryan R. Klatt
2012	John D. Amen, Sr.	Bryan R. Klatt
2013	John D. Amen, Sr.	Bryan R. Klatt
2014	Robert L. Duitsman	Bryan R. Klatt
2015	Robert L. Duitsman	Bryan R. Klatt
2016	Francis X. Olivieri	Bryan R. Klatt
2017	Francis X. Olivieri	Bryan R. Klatt
2018	Todd E. Deal	Bryan R. Klatt
2019	Todd E. Deal	Bryan R. Klatt
2020	Thomas M. Zisa	Bryan R. Klatt
2021	Thomas M. Zisa	Bryan R. Klatt

PAUL R. RYAN
 THOMAS M. ZISA
 BRYAN R. KLATT

Publication Committee

Dated: September, 2020

CERTIFICATION

This CONSTITUTION was adopted by the Grand Lodge at its Annual Session held in Denver, CO, July 19, 1906, and by resolution was submitted to the Subordinate Lodges, who ratified it by a large majority vote. The same took effect and superseded the former Constitution upon the convening of the Annual Session of the Grand Lodge held in Philadelphia, PA, July 16, 1907. Amendments were adopted at the Annual Sessions in Dallas, TX, July, 1908; Los Angeles, CA, July, 1909; Detroit, MI, July, 1910; Atlantic City, NJ, 1911; Portland, OR, 1912; Rochester, NY, 1913; Denver, CO, 1914; Los Angeles, CA, 1915; Atlantic City, NJ, 1919; Los Angeles, CA, 1921; Cincinnati, OH, 1927; Miami, FL, 1928; Los Angeles, CA, 1929; Atlantic City, NJ, 1930; Seattle, WA, 1931; Birmingham, AL, 1932; Milwaukee, WI, 1933; Kansas City, MO, 1934; Columbus, OH, 1935; Atlantic City, NJ, 1938; St. Louis, MO, 1939; Houston, TX, 1940; Philadelphia, PA, 1941; Omaha, NE, 1942; Boston, MA, 1943; Chicago, IL, 1944; New York, NY, 1946; Portland, OR, 1947; Philadelphia, PA, 1948; Cleveland, OH, 1949; Miami, FL, 1950; Chicago, IL, 1951; New York, NY, 1952; St. Louis, MO, 1953; Los Angeles, CA, 1954; Philadelphia, PA, 1955; Dallas, TX, 1960; Miami Beach, FL, 1961; San Francisco, CA, 1963; New York, NY, 1964; New York, NY, 1968; New Orleans, LA, 1971; Atlantic City, NJ, 1972; Chicago, IL, 1973; New Orleans, LA, 1980; Chicago, IL, 1982; Honolulu, HI, 1983; Seattle, WA, 1985; Denver, CO, 1986; Atlanta, GA, 1987; Las Vegas, NV, 1990; St. Louis, MO, 1991; Dallas, TX, 1992; New Orleans, LA, 1995; Chicago, IL, 1997; Anaheim, CA, 1998; Dallas, TX, 2000; Reno, NV, 2002; St. Louis, MO, 2003; Minneapolis, MN, 2004; Reno, NV, 2005; Orlando, FL, 2006; Charlotte, NC, 2007; Anaheim, CA, 2008; Portland, OR, 2009; Orlando, FL, 2010; Phoenix, AZ, 2011; Austin, TX, 2012; Reno, NV, 2013; New Orleans, LA, 2014; Indianapolis, IN, 2015; Houston, TX, 2016; Reno, NV, 2017; San Antonio, TX, 2018; and St. Louis, MO, 2019. *Baltimore, MD.

*Due to the corona virus pandemic lockdown of 2020, the Annual Convention was canceled for Baltimore, MD. The amendments this year are in the form of 3 Exhibits being added by the Committee on Judiciary.

The STATUTES were originally submitted by the Committee on Constitutional Revision at the Forty-Third Annual Session of the Grand Lodge held in Philadelphia, PA, July 16, 1907, and regularly adopted, to be in force and effect on and after September 1, 1907. At the 1983 Grand Lodge Session in Honolulu, the Statutes were amended in their entirety by recodification. All Laws and Statutes theretofore enacted by the Grand Lodge stand repealed and of no effect on and after said date except to the extent set forth in the current laws. Amendments thereafter enacted have been incorporated in this edition.

In compliance with the provisions of Sec. 4.370(g), we hereby certify that we have examined the following Constitution and Statutes of the Benevolent and Protective Order of Elks of the United States of America, and find that the same are in accordance with the Proceedings of the Grand Lodge.

Thomas M. Zisa, *Chairman*
Committee on Judiciary
Hackensack Lodge No. 658

Geoffrey B. Dobson, St. Augustine Lodge No. 829
Robert J. Van Campen, Saugus-Everett Lodge No. 642
Paul E. Robinson, Flat Rock Lodge No. 1731
John H. Atwood, Houston Lodge No. 151
Bryan M. Lindsay, Eveleth Lodge No. 1161
Joel W. Todd, Red Lodge 'Beartooth' Lodge No. 534
Robyn Sembenini, San Rafael Lodge No. 1108

Members, Committee on Judiciary — 2020-2021

Cross Reference Table — Code to Prior Statutes

Prior Statute	Code Section	Prior Statute	Code Section	Prior Statute	Code Section	Prior Statute	Code Section
1.010	159	4.370	42, 235	9.040	17	13.190	225, 239
1.020	48	4.380	47d	9.050	233	14.010	144, 145, 147,
1.030	91	4.390	44	9.060	83a, 84a, 91,		148, 152
1.040	new	4.400	47g		188, 217	14.020	144a, 148
1.050	new	4.410	47a	9.070	83a, 91, 198, 208,	14.030	152, 153, 153a,
1.060	new	4.430	47b		213, 215, 218, 225		154, 155, 156, 164, 169
1.070	Const., 109	4.440	57	9.080	198	14.040	160
1.080	new	4.450	58	9.090	84	14.050	151, 163, 165
1.090	new	4.460	48	9.100	10	14.060	146a
1.100	new	4.470	new	9.110	13, new	14.070	168a
1.110	new	4.480	48	9.120	213	14.080	149
1.120	new	4.490	48b	9.130	78, 139, 159, 208	14.090	150, 158
1.130	new	4.500	48a	9.140	220	14.100	157
1.140	Const.	4.510	new	9.150	210	14.110	189, 190, 192, 193
1.150	new	5.010	49, 50	9.160	140, 140a, 222	14.120	191, 192, 196
1.155	new	5.020	50a, 51	9.170	141	14.121	191, 193
1.160	Const., 109	5.030	52	9.180	83b	14.130	194, 207
1.170	new	5.040	52a	9.190	83c	14.140	200
1.180	new	5.050	32, 53	9.200	148	14.150	199, 234
1.190	new	5.060	54	9.210	27	14.169	179
1.200	new	5.070	54a	10.010	166	14.170	179a
1.210	80	5.071	new	10.020	166	14.180	180
1.220	new	5.080	55	10.030	195	14.190	197
1.230	Const.	5.090	56	10.040	166	14.200	195
2.010	168	6.010	62	10.041	166	14.210	212
2.020	226	6.020	63	10.050	new	14.220	177
2.030	229	6.030	65	10.060	new	14.230	142, 143a
2.040	228	6.040	65a	10.070	new	14.240	143b
3.010	1, 2	6.060	66, 68	10.080	166	14.250	143
3.020	3	6.070	64	11.010	99	14.260	172
3.030	4, 5	6.080	67	11.020	103, 106	14.270	172
3.040	5, 6	6.090	69a	11.030	100	14.280	172
3.050	7	6.100	69	11.040	101	14.290	161, 162
3.060	8	7.010	70	11.050	102	14.300	178
3.070	9, 15	7.020	73	11.060	104	14.310	186
3.080	115	7.030	74a	11.070	104a	15.010	109, 114, 120
3.090	116	7.040	74b	11.080	108	15.020	110
3.100	116a	7.050	74b	11.090	107	15.030	111
4.010	14, 15	7.060	77	11.100	138	15.040	164, 176
	40c, 40d, 40e, Const.	7.070	new	11.110	new	15.050	201
4.020	61a	7.080	new	12.010	117, 117a, 128b	15.060	202
4.021	40c, 40d, 40e	7.090	71	12.020	123	15.070	113
4.030	18, 41, 70	7.100	92, Const.	12.030	175	15.080	165a
4.040	48	7.110	98a	12.040	124	16.010	31, 105, 137
4.050	22	7.120	Const.	12.050	125	16.020	170
4.060	23	7.130	71	12.060	126	16.030	209a
4.070	24	7.140	72	12.070	128	16.040	209
4.080	19	7.150	78	12.080	127	16.050	208, 208a
4.090	20	8.010	70, 79, 85	12.090	130	16.060	204
4.100	25	8.015	new	12.100	129	16.070	205, 206
4.110	26	8.020	81	12.110	131	16.080	203
4.120	29, 30, 61	8.030	83	12.120	128a	16.090	211
4.130	72	8.040	80, 81, 81a, 82	12.130	118	16.100	61, 112
4.140	30	8.050	85	12.140	119	16.120	40b
4.150	37	8.060	86	12.141	119	16.130	125a
4.160	28	8.070	87	12.150	122	16.140	219
4.170	32	8.080	87	13.010	134, 184, 185	16.150	214
4.180	33	8.090	88	13.020	79a, 132, 133	17.010	232
4.190	34	8.100	88a		134a-m, 135	17.020	238
4.200	35	8.110	89	13.030	134e	17.030	230
4.210	36	8.120	89a	13.040	132	17.040	231
4.220	37, 37b, 39	8.130	89	13.041	new	17.050	173
4.230	37a	8.140	90	13.050	134h	17.060	173a, 174
4.231	new	8.150	92	13.060	134l	17.070	183
4.232	new	8.160	93	13.061	new	18.010	233
4.240	38, 40, 59, 60	8.170	93a	13.070	134d	18.011	new
4.250	39	8.180	82a, 94	13.080	134j	18.020	234
4.260	40a	8.190	91	13.090	134b	18.030	235
4.270	40b	8.200	87a	13.091	44	18.040	236
4.280	40c	8.210	82a	13.100	134f	18.050	237
4.290	40d	8.220	95, 98	13.110	134g	18.060	239
4.300	40e	8.230	95, 98	13.120	134k	18.070	240
4.310	41, 47c	8.240	96, 98	13.130	134i	18.080	241
4.320	47e	8.250	97	13.140	134m	18.090	214
4.330	43	9.010	16	13.150	134a	18.100	40b
4.340	28	9.011	new	13.160	133		
4.350	46	9.020	242	13.170	134c		
4.360	47f	9.030	233	13.180	136		

Cross Reference Table — Code to Prior Statutes

Prior Statute	Code Section	Prior Statute	Code Section	Prior Statute	Code Section	Prior Statute	Code Section
3.010	1	4.450	58	3.090	116	14.070	168a
3.010	2	4.240	59	3.100	116a	14.030	169
3.020	3	4.240	60	12.010	117	16.020	170
3.030	4	4.120, 16.110	61	12.010	117a	out	171
3.030, 3.040	5	4.020	61a	12.130	118	14.260, 14.270, 14.280	172
3.040	6	6.010	62	12.140, 12.141	119	17.050	173
3.050	7	6.020	63	15.010	120	17.060	173a
3.060	8	6.070	64	out	121	17.060	174
3.070	9	6.030	65	12.150	122	12.030	175
9.100	10	6.040	65a	12.020	123	15.040	176
out	11	6.060	66	12.040	124	14.220	177
out	12	6.080	67	12.050	125	14.300	178
9.110	13	6.060	68	16.130	125a	14.160	179
4.010	14	6.100	69	12.060	126	14.170	179a
3.070, 4.010	15	6.090	69a	12.080	127	14.180	180
9.010	16	4.030, 7.010, 8.010	70	12.070	128	17.070	183
9.040	17	7.090, 7.130	71	12.120	128a	13.010	184
4.030	18	4.130, 7.140	72	12.010	128b	13.010	185
4.080	19	7.020	73	12.100	129	14.310	186
4.090	20	74, 74c, 75 & 76		12.090	130	16.100	187
out	21	Rules of Procedure		12.110	131	9.060	188
4.050	22	7.030	74a	13.020, 13.040	132	14.110	189
4.060	23	7.040, 7.050	74b	13.020, 13.160	133	14.110	190
4.070	24	7.060	77	13.010	134	14.120, 14.121	191
4.100	25	7.150, 9.130	78	13.020, 13.150	134a	14.110, 14.120	192
4.110	26	8.010	79	13.020, 13.090	134b	14.110, 14.121	193
9.210	27	13.020	79a	13.020, 13.170	134c	14.130	194
4.160, 4.340	28	1.210, 8.040	80	13.020, 13.070	134d	10.030, 14.200	195
4.120	29	8.020, 8.040	81	13.020, 13.030	134e	14.120	196
4.120, 4.140	30	8.040	81a	13.020, 13.100	134f	14.190	197
16.010	31	8.040	82	13.020, 13.110	134g	9.080	198
4.170, 5.050	32	8.180, 8.210	82a	13.020, 13.050	134h	9.070	198a
4.180	33	8.030	83	13.020, 13.130	134i	14.150	199
4.190	34	9.060, 9.070	83a	13.020, 13.080	134j	14.140	200
4.200	35	9.180	83b	13.020, 13.120	134k	15.050	201
4.210	36	9.190	83c	13.020, 13.060	134l	15.060	202
4.150, 4.220	37	9.090	84	13.020, 13.140	134m	16.080	203
4.230	37a	9.060	84a	13.020	135	16.060	204
4.220	37b	8.010, 8.050	85	13.180	136	16.070	205
4.240	38	8.060	86	16.010	137	16.070	206
4.220, 4.250	39	8.070, 8.080	87	11.100	138	14.130	207
out	39a	8.200	87a	9.130	139	9.070, 9.130, 16.050	208
4.240	40	8.090	88	9.160	140	16.050	208a
4.260	40a	8.100	88a	9.160	140a	16.040	209
4.270, 16.120, 18.100	40b	8.110, 8.130	89	9.170	141	16.030	209a
4.010, 4.280, 4.021	40c	8.120	89a	14.230	142	9.150	210
4.010, 4.290, 4.021	40d	8.140	90	14.250	143	16.090	211
4.010, 4.300, 4.021	40e	1.030, 8.190, 9.080,		14.230	143a	14.210	212
4.030, 4.310	41	9.070	91	14.240	143b	9.070, 9.120	213
4.370	42	7.100, 8.150	92	14.010	144	16.150, 18.090	214
4.330	43	8.160	93	14.020	144a	9.070	215
4.390, 13.091	44	8.170	93a	14.010	145	9.060	217
4.350	46	8.180	94	14.060	146a	9.070	218
4.390	47	8.220, 8.230	95	14.010	147	16.140	219
4.410	47a	8.240	96	9.200, 14.010, 14.020	148	9.140	220
4.430	47b	8.250	97	14.080	149	9.160	222
4.310	47c	8.220, 8.230, 8.240	98	14.090	150	out	224
4.380	47d	7.110	98a	14.050	151	9.070, 13.190	225
4.320	47e	11.010	99	14.010, 14.030	152	2.020	226
4.360	47f	11.030	100	14.030	153	out	227
4.400	47g	11.040	101	14.030	153a	2.040	228
1.020, 4.040, 4.460, 4.480	48	11.050	102	14.030	154	2.030	229
4.500	48a	11.020	103	14.030	155	17.030	230
4.490	48b	11.060	104	14.030	156	17.040	231
5.010	49	11.070	104a	14.100	157	17.010	232
5.010	50	16.010	105	14.090	158	9.030, 9.050, 18.010	233
5.020	50a	11.020	106	1.010, 9.130	159	14.150, 18.020	234
5.020	51	11.090	107	14.040	160	18.030	235
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Constitution of the Benevolent and Protective Order of Elks of the United States of America

PREAMBLE

To inculcate the principles of Charity, Justice, Brotherly Love and Fidelity; to recognize a belief in God; to promote the welfare and enhance the happiness of its Members; to quicken the spirit of American patriotism; to cultivate good fellowship; to perpetuate itself as a fraternal organization, and to provide for its government, the Benevolent and Protective Order of Elks of the United States of America, ordains this Constitution.

— ARTICLE I —

THE SUPREME LAW

Section 1. This Constitution, the Statutes enacted by the Grand Lodge not in conflict therewith, and the Ritual, shall be the Supreme Law of the Order.

• OPINIONS •

01 The Constitution, Statutes and the Ritual are the Supreme Law of the Order. The Decisions and Opinions are interpretations of that law.

02 Our Ritual contains the oath taken by all members, a part of which is not to introduce anything of a political character into our Order.

03 The Ritual requires the Altar Emblems to be in place at all regular and special meetings. Therefore, it is not necessary to so provide by By-Law.

04 The printing, public circulation, or recording of any part of the Ritual is improper. There is no objection to giving from memory the Eleven O'Clock Toast at dancing parties or social affairs so long as same is done in a dignified manner.

05 Complete exemplification of the initiation ceremony by one Officer is a violation of the Ritual and of Section 2.010.

Such a procedure is a farce and subjects the Lodge and Officer to disciplinary action.

06 The Eleven O'Clock Toast may properly be given by one other than an Exalted Ruler or Past Exalted Ruler. The only requirement is that it be "done in a dignified manner."

07 Where a Member will not salute and pledge allegiance to our Country's Flag because of religious or other beliefs, he should not become or remain a Member. Membership is not compulsory. It is a privilege, an honor and a mark of distinction. When one is initiated, he salutes and pledges allegiance, and takes an obligation to con-

form to the Constitution, Statutes, Rules and Regulations of the Order. Our Order is patriotic and our Flag holds a place of high honor in our Ritual. If, after initiation, a Member discovers, for whatever reason, that he cannot place his hand over his heart and pledge allegiance to our Flag and all it represents, then he should promptly sever his connections with the Order. This requirement does not apply to those who, by other evidence, are willing and desirous of delivering the Pledge and/or Salute but are prevented from doing so by reason of a physical impairment. (*See also Section 14.010*)

08 It is not permitted to use a substitute for the Eleven O'Clock Toast in the Ritual or any official ceremony prescribed by the Grand Lodge. There is no prohibition against use of other versions at informal or social gatherings, as long as the version is proper for the occasion.

09 The Tiler is required to attend the outer door of the Lodge from the time the session begins until it is closed. He is not required to act prior to the time the Lodge session is opened. After the Lodge convenes he must examine the membership cards of any Member seeking admission. He is not required to examine membership cards prior to the opening of the Lodge session. The membership card of each Member present at the time the Lodge is opened is examined by either the Esteemed Lecturing Knight or the Esteemed Loyal Knight. This is clearly set forth in the Ritual which is the Law of the Order.

CONSTITUTION

— **ARTICLE II** —

DEPARTMENTS OF GOVERNMENT

Section 1. The powers of government shall be divided into three independent coordinate departments, viz: Legislative, Executive and Judicial.

— **ARTICLE III** —

LEGISLATIVE DEPARTMENT

Section 1. The Legislative power shall be vested in a Grand Lodge, which shall consist of:

- (1) Its Past Grand Exalted Rulers in good standing in their respective Lodges.
- (2) Its Officers, Members of Committees, and District Deputy Grand Exalted Rulers.
- (3) All Past Exalted Rulers who are in good standing in their respective Lodges, and all others who were Members of the Grand Lodge at the time of the taking effect of this Constitution, while they remain in good standing in their respective Lodges.
- (4) A Past Exalted Ruler shall be one who has served his Lodge for a full Lodge year as Exalted Ruler, or one who, during period of war, resigned his office and entered the Armed Forces or maritime service of the United States, or one who dies in office, or one who has served the unexpired term of one, who from any cause, failed to complete the term for which he was elected, or who has, in like manner, rendered service to a proposed Lodge which is under Dispensation if the proposed Lodge shall subsequently receive a Charter, or one whose Lodge surrenders its Charter when consolidating with another Lodge under Section 11.060.
- (5) Representatives of Local Lodges.

• **OPINIONS** •

01 Exalted Ruler who resigns because of business or illness does not acquire status of Past Exalted Ruler.

02 Exalted Ruler who, during war, resigns to enter the Armed Forces or maritime service of the United States, is entitled to status of Past Exalted Ruler.

03 A Member who was elected, but not installed, before entering the service of his country is not entitled to the standing of Past Exalted Ruler.

04 A Member is not entitled to hold office in the Grand Lodge until he has attended one Grand Lodge Session, although he may have the status of Past Exalted Ruler.

05 Any Exalted Ruler who completes the term of another Exalted Ruler, who for any cause failed to complete the term, is entitled to the status of Past Exalted Ruler.

06 Status of Past Exalted Ruler is not created automatically. He attains such status only (1) by resignation from office to enter military service or (2) by expiration of term.

07 A Past Exalted Ruler suspended for nonpayment of dues, regains his membership in the Grand Lodge upon being reinstated.

08 A Past Exalted Ruler does not lose his Grand Lodge membership when he demits to another Lodge.

09 The Exalted Ruler of a Lodge at the time the Charter is forfeited does not become a member of the Grand Lodge, and is not entitled to the standing of a Past Exalted Ruler.

10 Absence from duty by Exalted Ruler does not prevent him from attaining the status of Past Exalted Ruler, if the Lodge does not avail itself of the statutory provision to declare the office vacant.

11 A Member of the Lodge cannot become a member of the Grand Lodge, unless he is a Past Exalted Ruler, and he cannot be a Past Exalted Ruler unless he has been installed and completed a term as Exalted Ruler.

12 A Past Exalted Rulers Association has no constitutional or statutory power. Its actions shall be only advisory.

CONSTITUTION

13 A person must be a Past Exalted Ruler in order to qualify for membership in a Past Exalted Rulers Association.

14 A Past Exalted Ruler of another Lodge is not eligible for membership in Past Exalted Rulers Association of present Lodge, unless By-Laws of Past Exalted Rulers Association so provide. Neither are they entitled to receive P.E.R. buttons of present Lodge.

15 A Past Exalted Ruler upon transferring is entitled to have the designation upon his membership card, since the title is not lost by the transfer.

16 Esteemed Leading Knight serving as Exalted Ruler under Section 12.040 does not acquire the status of a Past Exalted Ruler.

17 Exalted Ruler, serving the Lodge under Dispensation, to become Past Exalted Ruler, must serve until the next regular election and installation, as provided in Section 11.090.

18 Resignation to serve in Coast Guard, during peace time, does not entitle one to status of Past Exalted Ruler.

19 An Exalted Ruler served meritoriously for seven months when change of business, and residence, prompted his resignation. The

Lodge would like to confer the title of Past Exalted Ruler upon him. HELD: There is no way this may be done. Except for resignation, in time of war, to enter one of the specified services, one must complete a term to be a Past Exalted Ruler.

20 An Exalted Ruler who resigns prior to the completion of his term does not attain status of a Past Exalted Ruler. Only one who completes a term of Exalted Ruler, no matter how short the duration, becomes a Past Exalted Ruler.

21 A Member elected as Exalted Ruler who is forced for reasons of health to resign before completing his term is not a Past Exalted Ruler; the Exalted Ruler who is elected to complete, and does complete, the term of his predecessor becomes a Past Exalted Ruler, and is entitled to membership in the Past Exalted Rulers Association.

22 A District Deputy is a member of the Grand Lodge. A Past Exalted Ruler may be designated as District Deputy before he attends the Grand Lodge Session, but he must then attend the Session and may be sworn in as a District Deputy following the close of such Session.

• DECISION •

01 The conviction of an Exalted Ruler which is later affirmed by the Grand Forum deprives the individual of the status of Past Exalted Ruler if he was suspended from duty

by the District Deputy prior to the expiration of his term of office.

(Grand Forum, Case No. 774, 1989)

Section 2.

(1) Effective June 1, 2013, the Officers of the Grand Lodge shall be:

The Grand Exalted Ruler, who may also be known as National President

The Grand Esteemed Leading Knight

The Grand Esteemed Loyal Knight

The Grand Esteemed Lecturing Knight

The Grand Secretary

The Grand Tiler

The Grand Esquire

The Grand Inner Guard

The Grand Chaplain, and

The Grand Trustees

Provided, that a Member, in order to qualify for appointment as Grand Chaplain, need only be a Member of the Order in good standing in his Lodge and a duly ordained and practicing member of the clergy; and upon such appointment as Grand Chaplain he shall be and become a member of the Grand Lodge.

CONSTITUTION

- (2) The Grand Exalted Ruler, the Grand Esteemed Leading Knight, the Grand Esteemed Loyal Knight, the Grand Esteemed Lecturing Knight, the Grand Secretary, the Grand Inner Guard and the Grand Trustees shall be elected by the Grand Lodge in such manner as it shall provide by Laws of the Order. All other Grand Lodge Officers, not elective as herein provided, shall be appointed by the Grand Exalted Ruler. The Grand Lodge may create other offices and provide by Laws of the Order, the method of filling the same.

- (3) The term of office of the Officers named in this Constitution, except that of the Grand Trustees, shall be the Grand Lodge year succeeding their election or appointment and until their successors shall have been elected or appointed and installed. The term of office of the Grand Trustees of whom there shall be eight, shall be the four Grand Lodge years succeeding their election, and until their successors shall have been elected and qualified. No Grand Trustee who has served a full term of four years shall be eligible for reelection. For the purpose of carrying into effect the provisions hereof relative to the number of Grand Trustees, the Grand Lodge, at its annual session in 1962, shall elect four Grand Trustees for the respective terms of one, two, three and four years each. Thereafter, and commencing at the annual Grand Lodge Session of 1963, two Grand Trustees shall be elected annually.

- (4) A Grand Lodge Officer may be convicted and removed on impeachment with a two-thirds vote of the Grand Lodge.

• OPINIONS •

01 This provision has no application to Trustees of a Local Lodge, who may properly be elected to succeed themselves under Sections 3.080 and 15.010, Laws of the Order.

02 The Grand Chaplain upon his appointment becomes a member of the Grand Lodge and remains a member of the Grand Lodge after serving his term of office as such Grand Chaplain.

Section 3. Any Member in good standing in his Local Lodge, who shall have served as a member of one Grand Lodge Session, shall be eligible to any of the offices created by this Constitution.

Section 4. Each Local Lodge shall be entitled to one representative to the Grand Lodge and such representative shall be the Exalted Ruler of such Lodge; and, annually, at the same time and in the same manner as Officers of the Lodge are elected, an alternate representative shall be elected from the Past Exalted Rulers or other Grand Lodge Members in good standing on its rolls, or the retiring Exalted Ruler, to serve in the place of the Exalted Ruler should he for any reason fail to attend the Session of the Grand Lodge.

The Exalted Ruler of a Lodge acting under Dispensation, or in the event he should for any reason fail to attend, an alternate elected by the Members thereof at a special election, from any of its past or present Officers, shall have the right to represent such Lodge; provided, however, that the rights and privileges of such representative shall, until a Charter is authorized to his Lodge, be limited to questions pertaining to his Lodge.

CONSTITUTION

Section 5. No person shall be entitled to a seat in the Grand Lodge while not in good standing in his Local Lodge. An Officer, member of a Committee, District Deputy Grand Exalted Ruler, or Representative of a Local Lodge shall forfeit his position by failure to keep in good standing in his Local Lodge.

Section 6. The Grand Lodge shall meet annually in regular session. The Grand Exalted Ruler, with the approval of the Board of Grand Trustees, shall fix the time and place of holding the regular session. The Grand Exalted Ruler may convene the Grand Lodge in special session as provided by Statute.

Section 7. One hundred Members of the Grand Lodge, of whom at least two shall be elective Officers, shall constitute a quorum.

Section 8. The Grand Lodge shall be the judge of the election and qualifications of its Members. It shall have the power to suspend or expel any of its Members, as may be provided by Statute.

Section 9. The Grand Lodge shall have power:

- (1) To define the powers and duties of its Officers and Committees, except as they may be fixed by the Constitution.
- (2) To define offenses by any Member or Lodge of the Order and prescribe penalties therefor.
- (3) To provide revenue for the Grand Lodge, control its property, and appropriate its funds.
- (4) To act as Trustees of funds raised or contributed by the Members or Lodges of the Order for charitable purposes, and to control the use and distribution of such funds; and to establish a permanent trust fund for charitable, educational, and benevolent purposes and to provide for accretions thereto, from any source whatsoever, to be held in trust, invested and administered, together with other funds or properties transferred from any source for like purposes, by the Elks National Foundation Trustees.
- (5) To provide for the institution of Local Lodges, the issuance of Dispensations and Charters thereto, the manner in which the same may be suspended or forfeited, and the laws by which the same shall be governed.
- (6) To provide the Ritual of, and prescribe the paraphernalia, emblems and jewels used in the Order.
- (7) To provide by Statute for the enforcement of the orders of the Grand Lodge and the Grand Exalted Ruler, and the decrees, judgments and orders of the Grand Forum, Intermediate Forums and Local Forums.
- (8) To enact all Statutes which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the Order, or of any department or Officers thereof, or such as will preserve the interests or promote the general welfare of the Order and its Members.

CONSTITUTION

Section 10. The Grand Lodge may by Statute provide for the impeachment and removal from office of any Grand Lodge Officer, and define the offenses for which impeachment may lie, but shall possess no other power with reference thereto than removal from office and disqualification to hold office in the Grand Lodge thereafter.

Section 11. All laws enacted by the Grand Lodge shall be of general application and shall be called Statutes.

Section 12. Any proposed Statute or amendment of a Statute shall be submitted in writing and filed in duplicate with the Grand Secretary, as provided by Statute, provided, however, that the Grand Lodge may, by a two-thirds vote, receive and act upon any proposed Statute or amendment which has not been so filed with the Grand Secretary.

• OPINIONS •

01 Article III does not prevent Judiciary Committee from proposing or recommending legislation, as provided by Section 4.370.

the Grand Secretary, is insufficient to cause the matter to be brought before Grand Lodge. A proposal to enact a new Statute or amend a present one must be in the precise language as the new or amended Statute would read if adopted.

02 A memorial or resolution by a Local Lodge to the effect that a present Grand Lodge Statute should be amended for reasons advanced in the memorandum submitted to

Section 13. All Statutes shall take effect on the 30th day after final adjournment of the Grand Lodge Session, at which they are enacted, unless otherwise provided.

Section 14. Unless otherwise provided by the Laws of the Order a majority vote of the members of the Grand Lodge present and voting shall decide all issues or questions properly before it.

Section 15. The Grand Lodge shall annually, by resolution, assess upon each Member of the Order annual dues, in such amount and to be paid in such manner as may be prescribed by the Grand Lodge, for raising revenue to meet the expenses of the Grand Lodge, including the maintenance of the National Headquarters and for the expense of publishing and distributing The Elks Magazine. No money, except the funds controlled by the Elks National Foundation Trustees, shall be drawn from the treasury, except as authorized by the Grand Lodge.

• OPINIONS •

01 In accordance with resolutions of the Grand Lodge required by Article III, Section 15, of the Constitution, *The Elks Magazine* must be published at least 10 times and a copy of each issue must be mailed or transmitted electronically, as a paid-up subscription to each Lodge and to each Member in good standing upon the rolls of the

respective Lodges and each Lodge is responsible to the Grand Lodge for the collection and transmission of the per capita annual dues which have been levied or assessed by the Grand Lodge.

02 A Lodge, by electing to Life Membership, cannot relieve any Member from the obligation to pay such per capita annual dues

CONSTITUTION

as may be imposed upon him under the Constitution by the Grand Lodge. Life Members are subject to all of the Laws of the Order, one of those laws being the right to levy per capita annual dues and assessments. This cannot be avoided by Local Lodge action. (*For Lodge dues, see Section 14.160*)

03 No vote or notice to membership of the Lodge is necessary to authorize the Lodge Secretary to make remittance for Grand Lodge dues.

04 A Local Lodge must pay Grand Lodge assessments on delinquent Members until they have been formally dropped from the rolls.

Section 16. Local Lodges may be instituted in any city, village or community, in the United States of America, or its possessions, that has within its limits 5,000 or more inhabitants, according to the last national, state, or municipal census; provided, however, that in cases dependent upon a municipal census the verity of such census shall be established to the satisfaction of the Grand Exalted Ruler; and provided, also, that the Grand Exalted Ruler may, where in his opinion special circumstances warrant such action, grant a Dispensation for the institution of a Local Lodge in any city, village or community in the United States of America, or its possessions, with a population of less than 5,000 inhabitants; and in such case he shall set forth in the official order granting such Dispensation the special reason for his action.

• OPINIONS •

01 The mere opinion of the Mayor or other individuals, as to the population of a city or community, is not sufficient census.

02 It is not necessary that a Past Exalted Ruler be elected the Exalted Ruler of a Lodge when instituted.

03 Members of the Order who have signed the application are not to be approved until they have obtained Transfer Dimits, in accordance with Sections 14.110 and 14.120.

Section 17. There may be more than one Local Lodge established in any city, village or community, or in any borough where a city is divided into boroughs. Where more than one Local Lodge is established within the corporate limits of any municipality, or where an existing Local Lodge is brought within the limits of a municipality where a Lodge exists, all Lodges existing in such municipality shall have concurrent jurisdiction, unless and until the Grand Exalted Ruler, with the approval of the members of the Advisory Committee assigned to the area, shall by Executive Order designate the jurisdictional boundaries of each such Lodge.

Section 18. There shall be no branches or degrees of membership in the Order, nor shall there be other adjuncts or auxiliaries other than Past Exalted Rulers Associations, separate non-profit corporations or charitable trusts, including those previously formed, and the optional organization and maintenance of State Associations except:

A Local Lodge, by appropriate amendment to its By-Laws, may recognize a ladies organization(s) as an auxiliary (auxiliaries) to that Lodge, provided its (their) aims and purposes are consistent with those of the Order.

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A Local Lodge, by appropriate amendment to its By-Laws, may recognize an organization(s), such as a recreational vehicle group or motorcycle group, provided its (their) aims and purposes are consistent with those of the Order, pursuant to Grand Lodge Statutes, Section 13.200.

The Activities Committee is authorized to organize and maintain a youth organization to be known as ‘The Antlers of the Benevolent and Protective Order of Elks’ according to the rules and regulations promulgated by the Activities Committee of Grand Lodge.

A Lodge or State Association may establish and maintain under such terms and conditions as may be provided by Grand Lodge Statutes and Lodge or State Association By-Laws, one or more charitable, educational or philanthropic projects. A Lodge corporation, trust, or other related legal entity formed under this Article shall comply with the applicable provisions of Section 16.030 unless otherwise required by the laws of the State where incorporated.

(For further information, see Sections 9.170, 16.030, and APPENDIX IV – TAX MATTERS.)

• OPINIONS •

01 Article III, Section 18, of the Constitution does not prohibit participation in a Mother’s Day Service with another organization. The Laws of our Order do not prohibit a Lodge from requesting or accepting cooperation in its endeavors from persons outside the Order. The cooperative effort of wives and sisters of Lodge Members is not only welcomed, it is urged.

02 A Lodge may provide in its House Rules that the wives, sisters and daughters of Members may meet in the Club rooms twice a month for socials, musicals, etc.

03 A By-Law creating a branch of our Order for the purpose of financial control of the Club, under a Social Club name, will not be approved.

04 A degree team organized to select its own members, sponsor money-raising activities and pledged to vote as a unit in Lodge affairs, is a direct violation of the Laws of our Order and subjects its members to expulsion from our Order.

05 It is illegal to organize a “Twenty-Five Year Club” of Elks.

06 A Lodge may organize an Elks Bowling League where the team members are all Elks, in good standing.

07 It is contrary to the Laws of the Order to organize and maintain a band, where fifty percent of the band are not Members of our Order.

08 A Lodge may properly sponsor Youth Activities or Boys’ Clubs, and donate funds and advice thereto. Such action must be under a committee of the Lodge, and subject to the customary committee control by the Lodge. Such activity should clearly show that it is sponsored by the Lodge and not an adjunct of the Lodge.

09 There is no Constitutional or Statutory prohibition against a Lodge associating itself with other Fraternal or Veterans societies for the purpose of aiding charitable or welfare projects.

10 The organization of certain members apart from the Lodge, to create a Charity fund by giving a carnival is a direct violation of the Laws of the Order.

11 Schemes and devices, under whatever names, which by contracts, express or implied, bring the Members of a Lodge, as such, into a binding contract that money or its equivalent is to be paid to beneficiaries, in the event of death, are in violation of the Laws of the Order. Such schemes and devices must not be fostered or tolerated by a Lodge.

12 A Lodge cannot lawfully establish or maintain an insurance fund of any character.

13 A Lodge has no power to create a Charity fund, sustained by assessments or dues, from which any type of insurance benefits are to be paid the Members or their relatives.

14 Past Exalted Rulers Associations should offer helpful counsel and render every possible service and assistance, to the end that the Lodges may have competent and safe leadership. They may recommend, but they do not have official status as a nominating committee.

15 Past Exalted Rulers Associations have no Statutory powers, they are advisory only. Grand Lodge approval for the organization of such Associations is not required.

16 State Associations are constitutionally-approved entities (Article III, Section 18). By Constitution and enabling Statutes State Associations may regulate their internal

CONSTITUTION

affairs in manner not contrary to the Laws of the Order; they have no compulsive authority over Local Lodges (Article III). By Statute (Section 18.020) State Associations may fix annual dues for membership.

17 A formal State organization of Elks Local Lodge Secretaries, which has By-Laws, Officers, and assesses dues is in violation of Article III, Section 18 of the Constitution and Section 9.070.

18 A Lodge, as part of its community participation, may contribute its funds to charitable, welfare or civic projects of a Chamber of Commerce, but should not become a member where such membership would change the status of a Lodge to a place of public accommodation.

19 A Past Exalted Rulers Association of a State Association is permitted under the provisions of Article III, Section 18 of the Constitution and Section 13.190.

20 This provision of the Grand Lodge Constitution does not prohibit a Local Lodge from taking life insurance on Members who make loans to the Lodge in a building program in an amount to cover each such loan, premiums to be paid by the Lodge. However, such method of financing must first be approved by the Board of Grand Trustees.

21 A Lodge as such is not permitted to form a corporation to conduct a credit union. This would amount to a Lodge engaging in business and is beyond the scope or purposes of the Order.

22 It is not permissible in a State to organize separate associations, designated as Northeast and Northwest Districts, operating as "The Upper Peninsular Elks Association," electing their own Officers and holding spring and fall conventions separate from the official State Association.

23 A Lodge may adopt a pension plan for employees of the Lodge or Club. Such a plan does not constitute a branch or degree of membership nor insurance or mutual benefit feature to the Members of our Order. Such pension plan must be limited to such employees.

24 Lodge Membership in an Interfraternal Council formed to coordinate civic and benevolent activities among fraternal Orders is not permitted but the Lodge may, subject to specific authorization of the Lodge, join with other fraternal Orders and participate with them in such activities.

25 The issuance of social or club membership to non-Elks giving them the rights and privileges to use the Club or Home is strictly in violation of not only Section 18, Article III, but also Section 14.130 of the Statutes.

26 A Past Exalted Rulers' Association may enact its own By-Laws for governing its own internal affairs including the establishment of a separate bank account in which to deposit its dues and from which to pay its obligations, so long as such By-Laws do not conflict with the Laws of the Order or the By-Laws of the Lodge. The books and records thereof are subject to audit by the Lodge Auditing Committee.

27 The Past Exalted Rulers' Association cannot sponsor affairs at the Lodge and retain the proceeds therefrom in its own treasury unless authorized by the Lodge and acting as a committee of the Lodge. In such sponsorship as a committee of the Lodge, its records and books are subject to audit and to the control of the Lodge.

28 All funds generated or held by a P.E.R. Association, other than P.E.R. Association dues, belong to the Lodge, may only be used if budgeted and approved by the Lodge, and are subject to audit by the Lodge.

29 The determination to be used by each Lodge in determining recognition of an auxiliary is to compare the aims and purposes of the auxiliary to our Preamble. Once the Lodge approves of an auxiliary by amending its By-Laws to include Article XV-A, the members of the auxiliary are entitled to use the facilities designated for them by the Lodge for their meeting nights and other specific events and the Lodge is without authority to interfere with the auxiliary membership requirements. On all other occasions separate and apart from those specific nights designated by the Lodge, any admission to a Local Lodge facility must comply with the provisions of the Grand Lodge Statutes, Local Lodge By-Laws, and House Rules.

30 The Elks logo or insignia cannot be shared with another non-Elk-affiliated organization.

31 A Lodge has no rights to the assets of an Auxiliary, absent a written agreement to the contrary, and unless the Auxiliary is defunct and has not effectively provided for the disposition of its assets.

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Section 19. The Grand Lodge shall keep a journal of its proceedings, which shall be published and distributed in such manner as the Grand Lodge may provide.

Section 20. Local Lodges of any State or Territory may organize and maintain a State Association composed of Lodges of that State, and any of the Lodges of the State of Delaware or the District of Columbia may attach themselves to and become a part of a State Association of any contiguous State, and any of the Lodges of the State of Hawaii, Guam and Manila may attach themselves to and become a part of the California State Elks Association, with the consent of the State Association involved. Not more than one Association shall be organized in any one State or Territory and such Association, when formed, shall at all times be amenable and subject to the supervision and control of the Grand Lodge and its properly qualified Officers. Except as set forth below, if an Association is organized within any State or Territory, then all Lodges located within such State or Territory shall belong to such Association.

The New Mexico Elks Association may, with the approval of the State Sponsor(s) of each involved state, the consent of the Texas Elks State Association, and two thirds approval of the El Paso Lodge No. 187 Members voting after 30 days advanced written notice of the date and time of the vote, annex El Paso Lodge No. 187 from the Texas Elks State Association into the New Mexico Elks Association. The annexed El Paso Lodge No. 187 shall thereafter have the same rights, privileges, duties and responsibilities of any other member Lodge in the New Mexico Elks Association.

Two or more State Associations may merge in accordance with procedures set forth in Grand Lodge Statutes.

Before they shall become effective the Constitution and By-Laws of each State Association shall be approved by the Grand Lodge, or by some Committee or Officer thereof, in such manner as the Grand Lodge shall from time to time direct.

No State Association shall exercise any legislative, executive or judicial functions, nor power of government except concerning its own internal affairs, nor have any jurisdiction over the Local Lodges of which it is composed, nor their Members.

Subject to these limitations, the powers, rights, duties and authority of the State Association shall be defined and fixed by Statute.

• OPINIONS •

01 A State Association has no power to levy dues upon the membership of a Lodge. It may, however, fix its own dues on the basis of Lodge population.

02 A Lodge can only be a member of a State Association of the State in which such Lodge is located, except as provided in Article III, of the Constitution.

03 A motion properly made, seconded and carried, under new business, that a Lodge join a State Association is proper, and notice to the membership is not necessary.

04 There is no provision in the Statutes which prevents a State Association from establishing such rules as it deems wise, with regard to eligibility of those taking part in baseball contests.

05 The separation of the office of Secretary-Treasurer of a State Association is part of its internal affairs within the meaning of Section 18.020 and is not in conflict with the Laws of our Order.

06 Solicitation by a State Association of Lodges within its own jurisdiction for contributions to welfare activities of the State Association is not a violation of Section 16.140.

CONSTITUTION

07 State Associations are constitutionally-approved entities (Article III, Section 18). By constitution and enabling Statutes State Associations may regulate their internal affairs in manner not contrary to the Laws of the Order; they have no compulsive authority over Local Lodges (Article III). By Statute (Section 18.020) State Associations may fix annual dues for membership.

Officers of a State Association under properly approved State Constitutional or By-Law provision is not inconsistent with any Grand Lodge law and is a valid exercise of State Association authority.

08 Election or appointment of District

09 No State Association shall create a Forum to exercise judicial power over Local Lodges or Members thereof. It does have the power of government on matters concerning its own internal affairs.

— **ARTICLE IV** —

EXECUTIVE DEPARTMENT

Section 1. The executive power shall be vested in the Grand Exalted Ruler.

• **OPINIONS** •

01 An Executive Order is final unless appealed from, and every Member of the Lodge affected thereby must obey the same unless and until it is reversed.

03 The Grand Exalted Ruler may not substitute his Executive Order for Constitutional or Statutory provision. Where the Statutes expressly provide for the reinstatement and affiliation by Transfer Dimit, such provisions must be complied with. The Grand Exalted Ruler cannot change express Statutory procedure by Executive decree. (*See Article VII, Section 8, of the Constitution.*)

02 The power given to the Grand Exalted Ruler is broad. In addition to the express powers therein specified, he also has implied powers as are incidental or necessary to make the express power effective.

Section 2. The Obligation taken by the Grand Exalted Ruler at his installation shall embrace the following oath:

“I solemnly swear (or affirm) that I will faithfully execute the office of Grand Exalted Ruler, and will to the best of my ability, preserve, protect and defend the Constitution of the Benevolent and Protective Order of Elks of the United States of America.”

Section 3(a). In case of a vacancy in the office of the Grand Exalted Ruler by reason of death, resignation, or otherwise, the powers and duties of such office, but not the office itself, shall forthwith devolve upon the other Officers named in Article III, Section 2, hereof, in the order named therein. Such Officer, upon taking the oath of office, shall be known and designated as Acting Grand Exalted Ruler of the Order until a new Grand Exalted Ruler is elected, either at the ensuing session of the Grand Lodge, or, prior to such session, by a majority vote of all members of the Grand Lodge Advisory Committee. A member so elected as Grand Exalted Ruler by the Grand Lodge Advisory Committee shall, upon completion of his term of office, be and become a member of the Grand Lodge Advisory Committee.

Section 3(b). In case of the inability of the Grand Exalted Ruler to discharge the powers and duties of his office, the powers and duties of such office shall, subject to further provisions herein, devolve upon the other Officers named in Article III, Section 2, hereof, in the order named therein, for the duration of such inability.

CONSTITUTION

Such inability of the Grand Exalted Ruler shall be determined by one of the following methods:

- (1) The Grand Exalted Ruler may declare his own inability in writing;
- (2) If the Grand Exalted Ruler is unable or unwilling to make such declaration, a majority vote of all members of the Grand Lodge Advisory Committee may make such a declaration;
- (3) The Grand Exalted Ruler may resume the powers and duties of his office upon his own declaration in writing, except, that if two-thirds of all members of the Grand Lodge Advisory Committee do not agree that the Grand Exalted Ruler is able to resume the powers and duties of his office, the Acting Grand Exalted Ruler provided for herein shall continue to act in such capacity.

Section 3(c). When there is a vacancy in the office of the Grand Exalted Ruler, and a new Grand Exalted Ruler has been elected by the Grand Lodge Advisory Committee, as provided in subsection (a) hereof, such new Grand Exalted Ruler shall nominate a Member of the Order to fill the office of Grand Esteemed Leading Knight or other office left vacant by his election as Grand Exalted Ruler, which nomination shall be confirmed by vote of a majority of all members of the Grand Lodge Advisory Committee.

Section 4. The Grand Exalted Ruler shall appoint all standing committees, and all special committees when the Statute, motion or resolution authorizing their appointment, does not otherwise provide.

Section 5. The Grand Exalted Ruler shall have power to fill vacancies in Grand Lodge Offices which may occur while the Grand Lodge is not in session by granting commissions which shall expire with the ensuing session of the Grand Lodge and after their successors have been qualified and take office.

Section 6. The Grand Exalted Ruler shall have general supervisory power over all Officers of the Grand Lodge and of the Local Lodges of the Order; he shall have access to all books, papers, documents and letters of any Officer of the Grand Lodge or any Local Lodge of the Order and may require from either a report in writing as to any matter within such Officer's knowledge.

Section 7. The Grand Exalted Ruler, at the annual session of the Grand Lodge, shall make a report of his official acts and the general condition of the Order and make such recommendations as he may deem proper for the information of the Grand Lodge.

Section 8. The Grand Exalted Ruler shall have power to grant Dispensations to organize Local Lodges.

Section 9. The Grand Exalted Ruler shall appoint such District Deputy Grand Exalted Rulers as may be provided by Statute. He may in special cases, by Executive Order, appoint a Special Deputy Grand Exalted Ruler or a Special Representative and commission him to perform such duties as may be assigned to him.

CONSTITUTION

Section 10. The Grand Exalted Ruler shall have power, by and with the consent of a majority of the Board of Grand Trustees, to suspend for violation of law, or for other good cause, any Officer of the Grand Lodge, and to revoke, take away and forfeit, or to suspend, the Charter or Dispensation of any Local Lodge; subject to such limitations as the Grand Lodge may by Statute provide.

• OPINION •

01 Where State Liquor Control laws prohibit the assignment, etc., of liquor licenses (and generally they do), any subterfuge such as operation by a steward under arrangement where he receives the profits in whole or in

any part, or otherwise, under which the license may be and should be revoked, constitutes a direct violation of the Laws of this Order for which the Lodge's Charter may be suspended or revoked.

• DECISIONS •

01 Where no minutes, records or other substantial evidence have been produced to establish the holding of meetings and the election of Officers, and evidence was introduced to indicate the failure to appoint the proper committees required by Statute, the action of the Grand Exalted Ruler in issuing an Executive Order revoking the Charter of the Lodge will be sustained. (*Grand Forum, Case No. 553, 1973*)

violation of the Constitution of the United States, State law and general public policy, have been found to be without merit. (*Grand Forum, Case No. 557, 1973*)

02 Where no proof to the contrary is shown and appellant neither appears in person nor is represented, the action of the Grand Exalted Ruler in revoking the Charter of the Lodge must be affirmed. (*Grand Forum, Case No. 554, 1973*)

05 Where a Local Lodge adopts a resolution serving notice on the Grand Lodge that it does not intend in the future to be bound by certain provisions of the Constitution and Statutes of the Order, gives widespread publicity to its action, and persisted to maintain its position despite repeated warnings by the Grand Lodge, its contention that its action was only for the purpose of protecting certain of its rights in the community in which it was located will not be given credence, and the action of the Grand Exalted Ruler in revoking the Charter of such Lodge must be sustained. (*Grand Forum, Case No. 558, 1973*)

03 The taking of bankruptcy proceedings by a Lodge of the Order, with its consequent effect upon neighboring Lodges and the Order, and the continued refusal of the Lodge to withdraw its proceedings despite repeated warnings, is sufficient cause for the issuance of an Executive Order revoking the Charter of such Lodge. (*Grand Forum, Case No. 554, 1973*)

06 Where appellant adopts a resolution in which it declares that it does not intend in the future to be bound by certain provisions of the Constitution and Statutes of the Order, the action of the Grand Exalted Ruler in revoking the Charter of such Lodge will be sustained. The defenses that the Grand Lodge has not sufficiently emphasized the requirements of such Sections, that it was guilty of laches in not more promptly enforcing the compliance with the provisions of the Constitution and Statutes of the Order, that the requirements for membership in the Order are contrary to federal and state laws and to public policy, and that the membership of Local Lodges are insufficiently informed as to the Laws of the Order, are without merit, and the action of the Grand Exalted Ruler must be sustained. (*Grand Forum, Case No. 559, 1973*)

04 Where a Local Lodge amends its By-Laws in such a manner that they are in conflict with the Constitution and Statutes of the Order, the action of the Grand Exalted Ruler in revoking the Charter of such Lodge will be sustained, and the contention of the Local Lodge that the Grand Lodge has discriminated by not applying the rules, Statutes and Constitutional provisions with equal force in a similar matter to all Members and Lodges within the Order, that the Laws of the Order are ambiguous, and that the Constitution and Statutes of the Order are in

CONSTITUTION

Section 11. The Grand Exalted Ruler shall have power to convene a Local Lodge in special session. He shall in such cases, transmit to the Secretary of such Lodge, a written order directing him forthwith to notify all the Members of the Lodge of the time of such meeting, which shall not be less than five days from the date when the order should be received by the Secretary in ordinary course of mail. Such order shall specify the matter to be considered. Upon the convening of the Lodge, the special order for the meeting shall be “Good of the Order,” under which the Grand Exalted Ruler or his District or Special Deputy shall have the right to take up the matter referred to.

Section 12. It shall be the duty of the Grand Exalted Ruler to enforce the Laws of the Order, the decrees, judgments and orders of the Grand Forum, and Intermediate Forums, and to protect and defend the Order, and he is vested with all power necessary for the performance of such duty.

• DECISION •

01 The Grand Exalted Ruler, or his agents or assigns, cannot be deprived of his right to seek redress from the Courts of our land, where the councils of our Order cannot effectuate the relief necessary to effectively adjudicate the issues raised (i.e. damages). *(Grand Forum, Case No. 1100, 2005)*

— ARTICLE V —

ELKS NATIONAL FOUNDATION

Section 1. There is established the Elks National Foundation, the corpus of which shall be invested in income producing property and securities, and the income of which shall be applied from time to time and in such manner as the Trustees of such funds may determine, for the furtherance of such of the charitable, educational, and benevolent activities of the Order, or of its Local Lodges or associations of such Lodges, or otherwise, as the Trustees may determine; provided, that money or property may be received by the Trustees for other purposes than accumulation in the corpus of the Fund, if the donors thereof so direct, and within the general scope of the Foundation.

Section 2. The Elks National Foundation shall be administered by a Board to be known as the Elks National Foundation Trustees which shall consist of seven members of the Grand Lodge of the Order. At each annual Grand Lodge Session, immediately following his installation, the Grand Exalted Ruler shall nominate and, with the consent of the Grand Lodge, appoint one member of the Grand Lodge to serve as such Trustee for a term of seven years. Vacancies in said Board caused by death, resignation or otherwise may be filled until the next Grand Lodge Session by appointment of the Grand Exalted Ruler, and at the next Grand Lodge Session, such vacancies shall be filled for the unexpired terms involved by the Grand Exalted Ruler with the consent of the Grand Lodge.

Section 3. The Elks National Foundation Trustees are hereby granted and given plenary powers to promote, develop, and administer the said Foundation to accomplish its charitable, educational, and benevolent purposes; and are authorized and empowered to receive from any source any monies, securities, or other property that may be properly transferred to them, in trust for the

CONSTITUTION

purposes for which the Foundation is established; to invest the same in such safe securities and other property, and to sell, transfer, and reinvest the same in such manner as shall best safeguard the Fund and assure the continuity of its income; and may either accumulate such monies, securities, or other property as part of the corpus, using only the income thereof, or may use all or a part of such monies, securities, or other property for purposes of distribution, in case the respective donors thereof may so direct, within the scope of the charitable, educational, and benevolent purposes of the Foundation. Such Trustees shall serve without salaries or emoluments. The necessary expenses of said Trustees shall be paid by the Grand Lodge. The said Trustees shall report annually to the Grand Lodge their activities, the income and expenditures of the Fund during the past year and their prospective work and activities for the future. The disbursement of all monies from the Elks National Foundation Fund shall be upon order of the Elks National Foundation Trustees, such order to be signed by the Chairman and attested by the Secretary of such Trustees.

— ARTICLE VI —

THE JUDICIAL DEPARTMENT

Section 1. The judicial power shall be vested in one Grand Forum, in such Intermediate Forums as the Grand Lodge may from time to time establish, and in Local Forums. The decisions of the Supreme Court of the United States construing the words “judicial powers,” as used in the Constitution of the United States, shall be binding upon the Grand Forum in construing the words, “judicial powers” herein.

• OPINION •

01 No State Association shall create a Forum to exercise judicial power over Local Lodges or Members thereof. It does have the power of government on matters concerning its own internal affairs.

Section 2. The Grand Forum shall consist of five members who shall be called Grand Justices, and whose terms of office shall be five years and until their successors have been appointed and qualified. On the first day at each annual Grand Lodge Session the Grand Exalted Ruler shall nominate, and with the consent of the Grand Lodge, appoint one Grand Justice in the manner provided by law.

• OPINION •

01 The Grand Forum has the power to modify or reverse the decision of the Local Forums, on appeal. It may alter the punishment given by the Local Forum to comply with statutory provisions.

Section 3. The Grand Forum shall hold at least three terms in each year, at times and places to be determined by it, unless otherwise provided by Statute.

CONSTITUTION

Section 4. The Local Forums shall consist of the Presiding Justice of the Local Forum appointed by the Exalted Ruler in accordance with the Statutes of the Order and four Members of each Local Lodge who shall be appointed by the Exalted Ruler. Local Forums shall have original jurisdiction in all matters involving charges against a Member of a Local Lodge. Appellate jurisdiction over judgments rendered by Local Forums, and original jurisdiction in all other matters shall be vested in the Grand Forum, or such Intermediate Forums as may be created by the Grand Lodge.

• OPINION •

01 At the regular session after his installation, the Exalted Ruler shall appoint the Presiding Justice of the Local Forum as a member of such Forum. Such Presiding Jus-

tice is not installed as an Officer of the Lodge and is therefore not an Officer of the Lodge. He is merely a member of the Local Forum who also presides over the proceedings.

• DECISIONS •

01 The appointment of a Presiding Justice of a Local Forum is an act specifically reserved to the Exalted Ruler of a Lodge. This appointment is not subject to confirmation by the Lodge or by any Member or body within the Lodge. The appointee shall be a lawyer in the active practice of his profession, if available. If the Exalted Ruler violates the Law of the Order, charges may be made against him as provided in Section 9.070, before the Local Forum. A Complaint against the Local Lodge in such a case fails to state a cause of action over which the Grand Forum has original jurisdiction and will be

dismissed on demurrer being filed. Local Forums have original jurisdiction in all matters involving charges against a Member of a Local Lodge and the Grand Forum has only appellate jurisdiction from the Local Forum in such case. (Grand Forum, Case No. 521, 1967)

02 Local Forums have original jurisdiction in all matters involving charges against a Member of a Local Lodge and the Grand Forum has only appellate jurisdiction from the Local Forum case. (Grand Forum, Case No. 543, 1971)

Section 5. The Local Forum shall try Members of Local Lodges for violation of the Laws of the Order. The decision of a Local Forum shall be final unless an appeal is taken in accordance with the Laws of the Order.

Section 6. The Appellate Forum shall review and determine errors of law occurring upon the trial, including the question of whether there was any legal evidence to sustain the finding of facts, and shall affirm or reverse the decision, or remand the same for a new trial or other proceedings in accordance with the opinion. Provided, however, that the Grand Exalted Ruler, when he deems it for the good of the Order, may take an appeal from a Local Forum or an Intermediate Forum to the Grand Forum, for a retrial of the case upon its merits before the Grand Forum. A decision of a Local Forum or an Intermediate Forum shall be enforced pending appeal, unless stayed or suspended by order of one of the Grand Justices.

• DECISIONS •

01 The question of the weight of the evidence cannot be considered by the Grand Forum when sitting as an Appellate Court. (Grand Forum, Case No. 194, 1919)

limited to determining whether there is any legal evidence to sustain the finding of fact. (Grand Forum, Case No. 294, 1925)

02 On appeal the Grand Forum cannot pass upon the weight of the evidence, but is

03 On appeal the Grand Forum cannot substitute its judgment for that of the Local Forum. (Grand Forum, Case No. 1159, 2009)

CONSTITUTION

04 Where the record fails to provide any competent and admissible evidence to sustain the finding of guilt, a conviction will not stand. A conviction based solely on hearsay evidence, or opinion and speculation, cannot be sustained. (*Grand Forum, Case No. 1286, 2013*)

05 In a Local Forum proceeding, the burden of proof is on the Accuser to sup-

port the charges by competent and admissible evidence as judged by ordinary legal standards. Sufficiency of the evidence to support a finding is a matter of law to be determined by the Grand Forum. Where the charge is not supported by competent evidence, it is error for the Local Forum to find the Accused guilty. (*Grand Forum, Case No. 1250, 2013*)

Section 7. The Grand Exalted Ruler shall have power to grant pardons and commute sentences in cases of Members convicted of offenses against the Laws of the Order. A Board of Pardon Commissioners is hereby created to consist of the Chief Justice of the Grand Forum, the Chairman of the Committee on Judiciary of the Grand Lodge, and the Grand Esteemed Loyal Knight.

(NOTE: See Chapter 10 of the Statutes.)

• OPINION •

01 A Member who has been expelled from the Order after trial by the Local Forum, cannot regain his membership in the Order, except by Pardon granted by the Grand Exalted Ruler.

Section 8. The Grand Forum shall prescribe rules of practice and procedure for the Forums of the Order, where not prescribed by Statute.

Section 9. All decisions of the Grand Forum shall be in writing and shall be filed, together with syllabi thereof, with the Grand Secretary.

• OPINION •

01 Whether findings and judgment of a Local Forum should be published in the Lodge bulletin is strictly a matter of good sense and propriety. The sessions of such Forum are open to Elks in good standing and the judgement is entered in the Lodge minutes. If tried before the Grand Forum on

appeal, the Decision is filed with the Grand Secretary and published in the proceedings of the Grand Lodge Session. Since a Lodge bulletin is read by many non-Elks, it is generally good practice not to publicize through this medium.

Section 10. A Grand Justice, during his term of office, shall not be eligible to serve as a representative of his Lodge to the Grand Lodge. He shall not participate in the proceedings of Grand Lodge sessions except in the nomination and election of Officers and to report the proceedings of the Grand Forum.

CONSTITUTION

— ARTICLE VII —

LOCAL LODGES

Section 1. A Local Lodge can be instituted only as provided in this Constitution and Statutes enacted in conformity herewith. It shall consist of not less than twenty-five members.

• OPINION •

01 This Article means that at least twenty-five qualified persons may organize a Lodge. An appropriate Grand Lodge Statute may fix a higher minimum number.

Section 2. The Officers of a Local Lodge shall be an Exalted Ruler, who may also be known as the President; an Esteemed Leading Knight, who may also be known as the First Vice-President; an Esteemed Loyal Knight, who may also be known as the Second Vice-President; an Esteemed Lecturing Knight, who may also be known as the Third Vice-President; a Secretary, a Treasurer, an Esquire, a Tiler, a Chaplain, an Inner Guard, Trustees of not fewer than three nor more than five, and such other Officers as may be authorized by Statute, all of whom shall be elected or appointed, and hold office for such terms as may be provided by Statute, except that the alternative President and Vice-President titles provided for may only be used when communicating with the non-Elk public.

• OPINIONS •

01 All elected Officers hold office until their successors have been elected and installed.

02 The Exalted Ruler has no power to remove or suspend a Member for violation of the Laws of the Order. He does have authority to remove a personal appointee from office.

03 The Exalted Ruler has no authority to suspend the operation of a sentence or dismiss a complaint filed before the Local Forum.

04 The Lodge Offices of Secretary and Treasurer may not be combined.

05 A Lodge may not legally provide for compensation of any Lodge Officer, except the Secretary, Treasurer, Tiler and Organist.

06 Salary of a Lodge Officer must be definitely fixed by By-Law, and may be changed only by By-Law amendment.

07 There is no such office as Assistant Secretary. The duties of Secretary cannot be delegated. The Secretary may employ a clerk or office manager when authorized to do so by the Lodge.

08 The Secretary has only the powers given him by Statute and By-Laws. He is under the supervision of the Lodge Officers and subject to the control and direction of the Lodge.

09 Unless otherwise provided by By-Law pursuant to Section 12.060, the Treasurer of the Lodge is the Financial Officer of every committee and every activity of the Lodge. He must give bond for the faithful performance of his duties. The Lodge may select the depository for monies of the Lodge, and if he deposits the monies of the Lodge therein, neither he nor his sureties are liable if the selection is unwise.

10 The Trustees of the Lodge (or Board of Directors as may be applicable) have charge of the property of the Lodge, and are at all times under control of the Lodge. They have no authority except that specifically given them by Section 12.070, or by the By-Laws of the Lodge, or by specific direction of the Lodge in regular session.

11 The Trustees of a Local Lodge should be called under the order of business "calling roll of Officers."

Section 3. Nine Members of a Local Lodge having a membership of one hundred (100) or more, measured as of the preceding March 31, of whom at least two shall be elective Officers, shall constitute a quorum. Local Lodges having a membership of ninety-nine (99) or less, measured as of the preceding March 31, shall have a quorum constituted with seven Members, of whom at least two shall be elective Officers.

• OPINION •

01 Visiting Elks cannot be counted in considering a quorum for transacting business of the Lodge.

CONSTITUTION

Section 4. Membership in the Order is limited to citizens of the United States of America who will pledge allegiance to and salute our Flag, not under twenty-one years of age, and having such other qualifications as may be provided by Statute.

• OPINIONS •

01 A Lodge has no power to enact a By-Law excluding persons because of their religious or political beliefs or business occupations, so long as their occupations do not constitute law violations, and their political beliefs do not embrace the destruction of our Government.

02 No Lodge can receive a Member who has been expelled from another Lodge unless and until a pardon has been granted by the Grand Exalted Ruler.

03 An applicant answering the question in the application for membership, relative to belief in a Supreme Being, to the effect that he was an "agnostic," is not eligible to membership. He must state that he believes in the existence of God.

04 A habitual bootlegger or other person who makes a business of violating the law is not a person of good moral character, and is therefore not eligible to membership in our Order. Anyone proposing such an applicant, knowingly, has violated his obligation, and should be expelled from the Order by the Local Forum.

05 A person, who is not a citizen of the United States, cannot become a member of our Order. The question of citizenship shall be determined by the laws of the United States.

06 Membership requirements of the Order are not and were never intended to be discriminatory against any person, group or nationality. When members are limited to citizens, to adults, we intend no offense to non-citizens or minors. When we require an applicant to be of sound mind and of good character, we do not condemn the unfortunate. When we choose not to associate with subversives, this is an exercise of the right of association known to all Americans as "the right to choose." We extend our charity to all; we harbor malice toward none.

Other fraternal and kindred groups have similar rights to fix requirements for membership. We cannot, and do not, complain because we cannot join fraternal or other groups limited to those of Protestant, Catholic or Jewish faiths as the case may be; or, because we cannot join an association limited to those of German, Scandinavian, African-American, Chinese, Scottish, Irish, English, or Japanese ancestry, or, because some of us cannot join a labor union, an educators' group, a veterans' organization, or the neighborhood bridge club. Our membership requirements are proper and lawful. When Americans lose this right of free choice of association, they will have lost much of their freedom.

07 Where a Member will not salute and pledge allegiance to our Country's Flag because of religious or other beliefs, he should not become or remain a Member. Membership is not compulsory. It is a privilege, an honor and a mark of distinction. When one is initiated, he salutes and pledges allegiance, and takes an obligation to conform to the Constitution, Statutes, Rules and Regulations of the Order. Our Order is patriotic and our Flag holds a place of high honor in our Ritual. If, after initiation, a Member discovers, for whatever reason, that he cannot place his hand over his heart and pledge allegiance to our Flag and all it represents, then he should promptly sever his connections with the Order. This requirement does not apply to those who, by other evidence, are willing and desirous of delivering the Pledge and/or Salute but are prevented from doing so by reason of a physical impairment.

(See also Article I, Section 1 and Section 14.010)

08 United States Citizenship is a continuing requisite to membership in our Order and a renunciation of United States citizenship at once acts as a renunciation of further connection with our Order. Upon discovery of such renunciation of citizenship by a Member, the Lodge must forthwith drop him from the rolls of the Lodge.

CONSTITUTION

Section 5. Local Lodges shall have such territorial jurisdiction as may be fixed by Statute.

• OPINIONS •

01 Section 14.100 provides that the jurisdiction of each Lodge over applicants shall extend to a line equidistant between the boundaries of the cities in which the two Lodges are located. This Section also gives the Grand Exalted Ruler power to arbitrarily fix the boundaries, if he thinks it for the best interests of the Order.

02 Section 4.260 does not give the Board of Grand Trustees the authority to fix territorial boundaries between Local Lodges.

03 The only method by which one Lodge can accept application for membership of a person residing within the legal jurisdiction of another Lodge, is set out in Section 14.080.

04 To determine the jurisdiction of adjoining Lodges, the distance between them must be computed on a direct line.

05 Section 14.100 does not authorize the establishing of "open territory" requiring all applications to be submitted to the Grand Exalted Ruler for dispensation, before being acted upon.

06 Immediately upon granting a Dispensation for a Lodge, the Lodge for which the Dispensation is granted becomes a Lodge under Dispensation and acquires jurisdiction over the same territory which would belong to it were it a chartered Lodge.

07 There is no such thing as jurisdiction over a certain territory by a Lodge by "priority."

Section 6. The fees for membership in a Local Lodge shall be fixed by its By-Laws and shall not be less than the minimum fees fixed by the Laws of the Order.

• OPINION •

01 A Lodge may not, by resolution, suspend the operation of its By-Laws relating to membership application fee and annual dues, for a limited period. To change a properly

processed By-Law amendment, approval by Judiciary is necessary. Dues may not be changed to become effective prior to the next succeeding April first.

Section 7. Each Local Lodge shall display its Charter or Dispensation in the Lodge room when in session.

Section 8. Each Local Lodge shall have general jurisdiction over its Members, and those holding dimits and unaffiliated Elks formerly on its rolls; and such other power and authority as may be incident to conducting the business of Local Lodges, not in conflict with the Laws of the Order.

• OPINIONS •

01 A Lodge is the judge of the qualifications and eligibility of its Members and each Lodge and the membership thereof is presumed to act properly and fairly under their Obligation. No Officer of the Lodge or of the Grand Lodge, nor the Grand Lodge itself, has jurisdiction or authority to control the action of the membership of a Lodge in the exercise of their right of franchise in the Order.

02 A Grand Exalted Ruler may not substitute his Executive Order for a constitutional or statutory provision. Where the Statutes expressly provide for the reinstatement and affiliation by Transfer Dimit, such provisions must be complied with. The Grand Exalted

Ruler cannot change expressed statutory procedure by executive decree.

03 A Member who has been stricken from the roll for nonpayment of dues is an unaffiliated Elk and is subject to charges in the Lodge with which he has been affiliated.

04 There is no provision in the Laws of our Order permitting an unaffiliated Elk to be restored to active membership posthumously.

05 The holder of a Certificate of Release whose application for affiliation with another Lodge has been rejected continues to be an unaffiliated Elk subject to the jurisdiction of the Lodge granting such certificate.

CONSTITUTION

06 An unaffiliated Elk is not eligible for admission to the Elks National Home.

07 A separate and additional charitable corporation whose purpose is limited to the

receipt of contributions from which all charitable activities of the Lodge are to be supported is contrary to Article III, Section 18, of the Constitution and Section 9.070.

Section 9. The name for each Lodge hereafter instituted shall be that of the city, village or community in which said Lodge is located, and its serial number, unless otherwise ordered by the Grand Lodge.

• OPINIONS •

01 Neither the Grand Exalted Ruler nor the Board of Grand Trustees has the power to change the name of a Local Lodge.

02 The expressed intention of the foregoing Section is that Local Lodges shall be given successive numbers in the sequence in which the Dispensation authorizing their institution is issued by the Grand Exalted Ruler.

03 Neither the Grand Exalted Ruler nor the Grand Trustees may issue an order changing the name or location or number of any Local Lodge. That power is vested only in the Grand Lodge. Name changes confirmed by Executive Order become effective when ratified by Grand Lodge, pursuant to Article VII, Section 9.

04 If the name of the City in which a Lodge is located is changed by legislative action, a certificate from the Secretary of State showing such change, and a petition of the Lodge that the name thereof be changed accordingly, may be presented to the Grand Exalted Ruler and he may direct the Grand Secretary to make the necessary change on his records and issue an amended Charter to the Lodge. If the change was made without legislative action, then same may be certified as provided by law in the State affected, or by the highest civil authority having jurisdiction.

05 This is the only method provided whereby the name of a Local Lodge may be changed.

— ARTICLE VIII —
GENERAL PROVISIONS

Section 1. A Grand Lodge year shall be from the installation of Officers at the annual session of one year to the installation of Officers at the annual session of the following year.

Section 2. The Grand Lodge shall have a seal, of which the Grand Secretary shall be the custodian, and he shall use the same to authenticate such documents or papers as require his official attestation.

Section 3. Neither the Grand Lodge nor any Local Lodge shall pass any retroactive law, nor any law in conflict with this Constitution or the laws of the United States, or of any State or Territory in which a Local Lodge is located, nor pass any law which will interfere with the religious or political convictions of Members of the Order.

• OPINIONS •

01 If a Lodge has elected an applicant while the initiation fee is fixed in its By-Laws at a certain amount, it must collect such amount and cannot accept a smaller amount provided in an amendment to the By-Laws of the Lodge adopted after the time the candidate was elected and before he was initiated.

02 The Constitution prohibits any Lodge from passing any retroactive law. Therefore a Lodge cannot provide for an effective date of a By-Law prior to its adoption and approval by the Judiciary Committee.

CONSTITUTION
— **ARTICLE IX** —
AMENDMENTS

Section 1. Any amendment to the Constitution must be submitted in writing, at an annual session of the Grand Lodge. If such amendment be approved by a two-thirds vote of the members of the Grand Lodge present and voting, it shall be submitted to all Local Lodges for adoption or rejection, and a time fixed when the Local Lodges shall vote upon the same. Each Local Lodge shall cast one vote for each member accredited to it upon the books of the Grand Lodge, and shall cast its entire vote either for or against the adoption of the amendment as may be determined by a majority of the Members of the Local Lodge present and voting. If an amendment shall receive a majority of the votes cast by the Local Lodges, it shall be declared adopted, and shall be immediately promulgated as part of this Constitution.

Section 2. The failure of a Local Lodge to vote upon the adoption or rejection of any such amendment and to make return thereof within the time fixed by the Grand Lodge shall be an act of Contumacy.

LAWS OF THE ORDER

— CHAPTER 1 — DEFINITIONS

Section 1.010. Contumacy:—Willful disregard of statutory provisions or order of the Grand Exalted Ruler.

• **DECISION** •

01 Willful is the intentional violation of a known duty. Willful acts occur when one intends a result, which actually comes to pass. It is intentional, not accidental and is not involuntary. (*Grand Forum Case No. 1088*)

Section 1.020. District Deputy Grand Exalted Ruler (DDGER):—A Past Exalted Ruler who has been selected by the Grand Exalted Ruler as his representative in a designated district.

Section 1.030. Felony:—A criminal offense which is specified by a law as a felony or, if not so specified, a criminal offense wherein the penalty provided by law can be greater than one year in jail.

Section 1.040. Grand Forum:—The highest judicial tribunal of the Order.

Section 1.050. Grand Lodge:—The collective group of Grand Lodge Members.

Section 1.060. Grand Lodge Headquarters:—The facility which houses all Grand Lodge agencies and offices.

Section 1.070. Grand Lodge Member:—A Member of the Order who is a Past Exalted Ruler and has attended a Grand Lodge Session, the Exalted Ruler attending a Grand Lodge Session, or a member of the clergy who is or has served as Grand Chaplain.

• **OPINION** •

01 While any Elk may attend a Grand Lodge Session, only Grand Lodge members may participate in the official proceedings of the Session without the suspension of the rules.

Section 1.080. Grand Lodge Session:—A duly called regular or special meeting of the Grand Lodge.

Section 1.085. Grand Lodge:—All voting at Grand Lodge Sessions to amend the Constitution, and/or Statutes shall be by paper ballot.

Section 1.090. Member of the Order:—A duly elected applicant for membership in the Order who has been initiated under the authorized ritual and is in good standing in the Order.

Section 1.095. A Member in Good Standing:—Shall be defined as a Member of the Order who is not currently:

- (a) An Unaffiliated Elk as defined in Section 14.120;
- (b) Delinquent in the payment of dues or Grand Lodge per capita fees and assessments;
- (c) Delinquent in the payment of State Association dues;
- (d) Suspended from Membership under any of the provisions of the Laws of the Order; or
- (e) Stricken from the rolls for indebtedness to the Club or Lodge under Section 14.170.

Section 1.100. Misdemeanor:—A criminal offense which is specified by a law as a misdemeanor or, if not so specified, a criminal offense wherein the maximum sentence provided by law is one year or less in jail.

Section 1.110. Moral Turpitude:—An action which offends the public conscience.

• OPINION •

01 The phrase “moral turpitude” means “moral turpitude” as recognized by civil law. Crimes are divided accordingly to their nature into crimes of “mala in se” and “mala prohibita.” The former is comprised of those acts which are inherently immoral and wrong

such as murder, rape, arson, burglary, theft, etc. and are crimes of “moral turpitude.” The latter are made crimes because they are prohibited by statute such as driving offenses, licensing violations, etc. and therefore are generally not crimes of moral turpitude.

Section 1.115. Notice:—Except as otherwise directed by Executive Order, any notice required to be sent or mailed to all Members of a Lodge may be included in the Lodge Bulletin or sent electronically to any Member who has given written authorization to receive notices electronically. Notice which is required to be served upon a specific Member must be served personally, by United States Mail or by United States Mail, Certified, Return Receipt Requested as specifically provided.

• OPINION •

01 It is recommended that whenever notice is served by certified mail, return receipt requested, a copy of the notice should also be served simultaneously by regular mail.

STATUTES ANNOTATED

Section 1.120. Order:—That corporation known as “Benevolent and Protective Order of Elks of the United States of America.”

Section 1.130. Parliamentary Authority:—The current version of Robert’s Rules of Order, Newly Revised, shall govern all proceedings unless contravened by the Constitution or Laws of the Order, or the By-Laws of a Lodge.

Section 1.140. Past Exalted Ruler (PER):—A Past Exalted Ruler shall be one who has served a Lodge for a full Lodge year as Exalted Ruler, or one who, during period of war, resigned his office and entered the Armed Forces or maritime service of the United States, or one who dies in office, or who has served the unexpired term of one who, for any cause, failed to complete the term for which he was elected, or who has, in like manner, rendered service to a proposed Lodge which is under Dispensation, if the proposed Lodge shall subsequently receive a Charter, or one whose Lodge surrenders its Charter when consolidating with another Lodge under Section 11.060.

• OPINIONS •

01 A Member attaining the status of Past Exalted Ruler is, as long as he is a Member of the Order, entitled to be designated as a P.E.R. on his membership card.

02 A P.E.R. who transfers to another Lodge does not become a P.E.R. of that Lodge, but remains a P.E.R. of the Lodge which he served as Exalted Ruler.

03 The Exalted Ruler of a Lodge at the time of forfeiture of the Lodge Charter does not become a P.E.R.

04 An Exalted Ruler who resigns his office does not become a P.E.R.

05 While a Past Exalted Rulers Association may by majority vote agree to support any matters submitted to it by the Lodge, a member of the Association is not prohibited from expressing a personal opinion at the meeting of the Lodge where the matter is presented.

06 A Member who serves a full Lodge year as Exalted Ruler of a Lodge is a PER of that Lodge, even if he or she does not attend the Grand Lodge Convention during their year as Exalted Ruler.

• DECISION •

01 The conviction of an Exalted Ruler which is later affirmed by the Grand Forum deprives the individual of the Status of Past Exalted Ruler if he was suspended from Duty

by the District Deputy prior to the expiration of his term of office. (*Grand Forum, Case No. 774, 1989*)

Section 1.150. Past Grand Exalted Ruler (PGER):—A Grand Exalted Ruler who has completed his term of office, or one who died while in office, or one who has served the unexpired term of one who, for any cause, failed to complete the term for which he was elected.

Section 1.155. Past District Deputy Grand Exalted Ruler (PDDGER):—A District Deputy Grand Exalted Ruler who has completed his term of office, or one who, during period of war, resigned his office and entered the Armed Forces or maritime service of the United States, or one who dies while in office, or one who has served the unexpired term of one who, for any cause, failed to complete the term for which he was appointed.

STATUTES ANNOTATED

Section 1.160. Quorum:—One hundred Members of the Grand Lodge, of whom at least two shall be elected Officers, shall constitute a quorum for a Grand Lodge Session. Nine Members of a Local Lodge having a membership of one hundred (100) or more, measured as of the preceding March 31, of whom at least two shall be elective Officers, shall constitute a quorum for the transaction of business of a Lodge in a regular or special meeting. Local Lodges having a membership of ninety-nine (99) or less, measured as of the preceding March 31, shall have a quorum constituted with seven Members, of whom at least two shall be elective Officers. A quorum for transaction of business by any Lodge Committee or Board shall consist of a simple majority of that body’s members of record, except three (3) members, or a simple majority of its members, whichever is less, shall constitute a quorum for the Past Exalted Rulers Association or Advisory Committee, as defined in Section 13.190 hereof.

• OPINION •

01 Visiting Members cannot be counted.

Section 1.165. Restricted Funds:—Funds or other property donated to, raised by, or allocated by a Lodge or related entity to be expended during a specified time or for a designated purpose, or both. Restricted Funds may be “temporary” if the restriction(s) will or could expire over a defined period of time, if the entity holding them is permitted to change or remove the restriction(s), or if the assets could be fully distributed for the defined purpose, or “permanent” if the purpose and time are designated or otherwise considered to be perpetual or the principal is to be held intact.

Section 1.170. Special Deputy Grand Exalted Ruler (SDGER):—A Member of the Order who has been designated by Executive Order to be available for special assistance to the Grand Exalted Ruler.

Section 1.180. Sponsor:—The Past Grand Exalted Ruler(s) (PGER) designated by the Grand Exalted Ruler to advise and assist in promotion of the interests of the Order in the State.

Section 1.190. State Association:—An organization comprised of the Lodges in one or more states or territories and the District of Columbia.

Section 1.200. Local Forum:—The judicial tribunal of a Lodge.

STATUTES ANNOTATED

Section 1.210. Local Forum Box:—A container prepared by the Trustees and Secretary of a Lodge in each June and December holding on slips of paper the names of Members in good standing. The names of all Members in Lodges of 200 or less and at least 200 names in Lodges with over 200 Members shall be in the container. In the alternative, the Secretary, while being observed by a Trustee, shall obtain a Drawing Roster from the CLMS application.

• OPINIONS •

01 Filling of a Local Forum box by a majority of the Trustees and the Secretary is legal unless fraud or collusion is shown.

attend to its preparation. (*See Section 8.210, 0p.01*)

02 If the Local Forum box has not been prepared at the time of its need arises, the Trustees and the Secretary shall immediately

03 For purposes of this Section, even in an incorporated Lodge the term “Trustees” refers only to the elected or appointed Lodge Trustees.

Section 1.220. Local Lodge:—A duly organized group of Members of the Order which has been granted a Charter as a Lodge of the Order.

Section 1.229. The masculine words appearing herein shall include the feminine gender as circumstances require.

Section 1.230. Supreme Law of the Order:—The combined provisions of the Constitution, Laws and the Ritual of the Order.

Section 1.300. An Unaffiliated Elk:—Shall be one who has:

- (1) been stricken from the rolls for nonpayment of dues;
- (2) been suspended from Membership under any of the provisions of the Grand Lodge Statutes;
- (3) been issued an Absolute Dimit;
- (4) been a Member of a Lodge whose Charter was suspended, surrendered or forfeited and who is not a Member of the Virtual Lodge or who has not affiliated with another Lodge; or
- (5) been stricken from the rolls for indebtedness to the Club or Lodge under Section 14.170.

— CHAPTER 2 —

RITUALS

Section 2.010. Only the rituals prepared by the Ritualistic Committee of the Grand Lodge and approved by the Grand Lodge shall be used in opening and closing a Lodge meeting, initiation of candidates, installation of Lodge Officers and institution of a new Lodge. Local Lodges may, through their By-Laws, adopt alternative rituals approved by the Grand Lodge for the opening and closing of the Lodge.

Should a Member or the District Deputy Grand Exalted Ruler report to the Grand Exalted Ruler that a Lodge has violated this Section, the Grand Exalted Ruler shall investigate the charges and if found to be true, the Grand Exalted Ruler may discipline the Lodge.

• OPINIONS •

01 All parts of the initiation ritual, except those marked optional, must be used in an initiation. The recitation of all parts by one individual offends this Section and subjects the offending Lodge to possible disciplinary action.

02 “Second Degree,” “Funny Work” or “Horse Play” are not part of our Ritual and should not be permitted.

03 Only those rituals so designated and the Eleven O’Clock Toast may be given in public.

04 An applicant may not be initiated by proxy.

05 The prescribed ritual for use during a Lodge meeting must always be followed.

Section 2.020. The first Sunday in December of each year shall be a day commemorated to the memories of departed Members, and shall be known as “Elks Memorial Day.” Every Lodge shall hold Memorial Services. The District Deputy Grand Exalted Ruler may grant a dispensation to any two or more Lodges to hold a joint service and may, upon written request, grant permission to a Lodge to hold such service on a designated day during the week immediately preceding or following the first Sunday in December.

• OPINIONS •

01 A Lodge must hold this service even though there was no death of a Member during the year. The Club and Social Parlor maintained by the Lodge shall be closed during the service.

02 The service may be held in a church, be broadcast and open to the public, but a prerecorded radio program broadcast on the first Sunday in December does not meet the requirements of this Section.

03 The service on the first Sunday in December is mandatory. However, additional

memorial services may be held at stated times.

04 The death of a Member shall be announced to the Lodge at its next ensuing meeting under “Sickness and Distress” and the prescribed ritual shall be immediately conducted.

05 It is proper and desirable to have our ladies or others perform the following functions at a Memorial Service: singing, lighting and extinguishing candles, participating in processions and the like.

STATUTES ANNOTATED

Section 2.030. It shall be the duty of each Lodge to hold the service known as “Flag Day Services” at the time and in the manner prescribed by the Ritual of the Order. The Grand Exalted Ruler or the District Deputy Grand Exalted Ruler may grant a dispensation for a different day or for two or more Lodges to hold such services jointly. The Grand Exalted Ruler or his area District Deputy may grant permission to a Lodge or Lodges to sponsor or conduct public programs or exercises substantially consisting of that portion of the Flag Day Ritual relating to the parade of the flags and the narrated History of the Flag, with appropriate music or other setting in keeping with the occasion.

• **OPINION** •

01 Public displays are permitted and encouraged for Flag Day programs. Public groups may be invited to participate in the display, but only Members of the Order may participate in the renditions of the Ritual.

Section 2.040. It shall be the duty of every Lodge of the Order to erect and maintain a memorial tablet or necrology, containing names of all departed Members whose names were upon the rolls of the Lodge as Members at the time of their demise, and such other inscriptions as the Lodge may deem proper. If any Officer of the Lodge should die during his term of office, the name of such Officer may be inscribed on such memorial tablet, or within such necrology, as a past Officer of the station that he was filling at the time of his death.

• **OPINIONS** •

01 When a Member dies, his name shall be placed on the memorial roll.

rolls despite being delinquent at the time of death is entitled to all the statutory rights of membership as any other Member on the rolls.

02 A suspended Member, uninitiated candidate or unaffiliated Elk cannot be given **ACTIVE** membership posthumously and cannot be placed on the memorial roll. However, a Member who is still on the Lodge’s

03 The location and type of memorial tablet or necrology is left to the good judgment of the Lodge.

— **CHAPTER 3** —
ELECTIONS

Section 3.010. The annual election of Grand Lodge Officers, set forth in Article III, Section 2 of the Constitution, shall be a special order of business on the first day of the regular Grand Lodge Session. The election shall be arranged by and be under the supervision of a “Committee on Elections.” Nominations for elective offices, except that of Grand Exalted Ruler, shall be made in the order listed. The Grand Exalted Ruler shall be the last nominated and elected Officer. The Grand Lodge may limit nominating speeches. The election of Grand Lodge Officers shall be by a standing majority vote except when a motion requesting a written ballot is made, properly seconded and voted by a majority of the Members of the Grand Lodge, the election will be by written ballot.

STATUTES ANNOTATED

Section 3.020. Upon registering for the Grand Lodge Session each Member of the Grand Lodge shall be furnished with an admission card with an attached voting coupon.

• OPINION •

01 Only Members of a Lodge that has paid its per capita fees and assessments, and who are otherwise qualified to attend or vote, shall be furnished an admission card and/or a voting coupon at a Grand Lodge Session.

Section 3.030. If a written ballot is required, the Committee on Elections, consisting of the Grand Esteemed Leading, Loyal and Lecturing Knights, shall have charge of the election under the direction of the Grand Exalted Ruler. It shall be the duty of the Committee to visit the Assembly Hall the day prior to the convening of the Grand Lodge, and perfect arrangements for the election. The Committee shall secure from the Board of Grand Trustees a proper number of ballot boxes. The Grand Exalted Ruler shall appoint two “Inspectors of Election” for each ballot box, who shall be in charge of the ballot boxes during the election and counting the ballots. Six “Clerks of Election” shall be appointed by the Grand Exalted Ruler, whose duty it shall be to distribute the ballots to those entitled thereto, under the direction of the Committee on Elections. Each member shall exhibit to an Inspector of Elections, or to a member of the Committee on Elections, his admission card with voting credential coupon attached, whereupon he shall be handed an official ballot. After preparing his ballot the member shall deliver his voting coupon to an Inspector of Elections in charge of the official ballot box and forthwith deposit his ballot in the official ballot box. Concurrently the Inspector of Elections shall deposit the voting coupon in a separate box.

The Grand Secretary shall provide the Committee on Elections with a supply of blank ballots containing in regular order a list of the offices to be filled, with a blank space beneath each sufficient for the writing of a name. Each member of the Grand Lodge shall prepare his ballot by writing in the blank spaces the names of the Members for whom he desires to vote.

• OPINION •

01 Appointees under this Section are not entitled to expenses.

Section 3.040. The polls shall remain open until all present in the Grand Lodge Session and tendering their ballots shall have voted. After the Grand Exalted Ruler asks if all present have voted, and when it appears that there are no others desiring to vote, he shall declare the ballot closed.

The ballot box shall remain locked from the opening of the polls until the ballot is declared closed.

STATUTES ANNOTATED

Section 3.050. The Inspectors of Election shall immediately proceed to count and record the votes. The Grand Lodge may proceed with other business. The Committee shall report to the Grand Exalted Ruler who shall announce the result to the Grand Lodge. The nominee for each office receiving a majority of the votes cast shall be declared elected. Should no nominee receive a majority of the votes, additional balloting shall be held eliminating from those ballots the nominee receiving the fewest votes on each ballot until a nominee shall receive the majority of the votes cast.

Section 3.060. If there is only one nominee proposed for any office, the Grand Lodge may direct the Grand Secretary or other Officer to cast the unanimous vote of the Grand Lodge for the nominee.

Section 3.070. The installation of Grand Lodge Officers and the newly appointed Grand Justice shall be on the last day of the Session and may be open to the public.

Section 3.080. Nominations for offices to be filled at the annual election in Lodges shall be made in the order in which they appear in Section 2 of Article VII of the Constitution of the Order at any regular meeting of the Lodge on or after the 1st day of January if meetings are held monthly, or after the 1st day of February and prior to the date of the annual election, provided, however, that if no nomination for an office shall have been made prior to the date of the election, or if all candidates previously nominated for an office, shall have declined or withdrawn, nominations for that office may be made on the date of election. If a Member has been nominated for more than one office, he must declare that he accepts one nomination and withdraw from other nominations before the close of the last regular meeting of the Lodge prior to the regular meeting at which the election is to be held, and if he does not do so, he must accept only the first nomination. No Member, unless nominated in accordance with this Section, shall be eligible to election at the annual election. Only a Member in good standing shall be eligible for nomination to office in the Lodge of which he is a Member.

A Lodge may, by its By-Laws, limit either the number of consecutive terms or the number of consecutive years during which a Member of the Lodge may hold the same office.

• OPINIONS •

01 Nominations need not be seconded and a motion to close nominations is unnecessary.

02 Nominations cannot be made at a special meeting.

03 There is nothing wrong with a concerned group of Members or PERs screening possible nominees, but the Exalted Ruler cannot appoint a nominating committee.

04 Any attempt by motion or By-Law to limit nominations to election night, postpone nominations to a later meeting or to provide for automatic advancement of Officers must be ruled out of order as contrary to the provisions of this Section. The provisions relating to the Secretary's duties indicate the necessity for having a time-frame for the Secretary to prepare the ballots. Inasmuch as Section 3.080 reads nominations made at "any" regular meeting of the Lodge indicates as long as the Secretary has the opportunity for preparation of the ballots (which they would for Lodges holding weekly meetings), then and in that event nominations could be received at either the first or second meeting of February with the vote to follow at the third meeting.

05 Any Member in good standing, regardless of residence, and except for those ineligible under Secs. 8.180, 9.010, 9.011, 9.040 or 9.300, may be nominated for any elective Lodge office by any Member of that Lodge in good standing. Any By-Law attempting to provide otherwise is void.

06 The provisions in this Section are not applicable to elections to fill vacancies in an Office during the year. (*See Section 12.150*)

07 Nomination of an Officer for a different Office does not require his resignation from his present Office, his election and installation automatically vacates his present Office.

08 Nominations to fill vacancies created in the Office of Trustees by a By-Law increasing their number cannot be filled until the By-Law has been approved by the Committee on Judiciary.

09 Nominating speeches may be limited with the consent of the Lodge.

10 Nominees are not required to openly accept a nomination, and need not be present.

11 A Member desiring to decline his nomination, if elected, may resign. Such resignation may be oral or written.

12 Nominations may be made on election night only if no nomination for that office has been made or if all candidates for that office have declined or withdrawn.

13 If on the night of officer nominations, the weather or other emergency requires a cancellation of the meeting, such nominations shall be postponed to the next regular meeting.

Section 3.090. The annual election shall be held at the second regular meeting in February by each Lodge holding regular semi-monthly meetings, and at the third regular meeting in February by each Lodge holding weekly meetings or tri-monthly meetings, and by a new Lodge as soon as instituted.

The election shall be conducted in the following manner:

The Exalted Ruler, or a Past Exalted Ruler, shall preside. The Lodge may provide in its By-Laws, or at a meeting previous to the meeting at which the election must be held, for convening the Lodge at an earlier hour than the regular meeting hour, in which case notice thereof must be sent to all the Members. The Lodge may provide that the balloting for Officers shall be a special order of business, and that the ballot remain open during certain hours. While the ballot is being taken the Lodge must be in formal meeting with Officers at their proper stations, and the ballot shall not be closed until all Members present in the Lodge room shall have had an opportunity to vote.

The election shall be by written or printed ballot, uniform in size and color, which ballot shall be provided by the Secretary, and shall contain in regular order a list of the offices to be filled. If by written ballot, it shall conform to such other regulations as the Lodge may direct; if by printed ballot, it shall contain, beneath the title of each office to be filled, the names of the nominees for each office, or a blank space for which no one has been nominated previous to the night of the election. When a printed ballot is used, each Member voting shall indicate his choice opposite the name of each nominee. The casting of each ballot shall be secret and without assistance, except in case of physical disability, and suitable arrangements therefor shall be made by the Lodge. Any Lodge may vote to use voting machines. When voting machines are used all the Laws of the Order shall be complied with so far as applicable. No ballot shall be cast or counted other than the ones provided by the Secretary. The

STATUTES ANNOTATED

nominee receiving the majority of the votes cast shall be declared elected. Should no nominee receive a majority of the votes, additional balloting shall be held eliminating from those ballots the nominee receiving the fewest votes on each ballot until a nominee shall receive the majority of the votes cast. In case there shall be but one nominee for any office, the Lodge may direct any Officer to cast the vote of the Lodge for the nominee.

No Member in arrears for dues shall vote at the election.

Immediately after the election the Secretary of the Lodge shall furnish to the Grand Secretary and the District Deputy Grand Exalted Ruler the names and addresses of all Officers.

• OPINIONS •

01 Failure to hold an annual election requires Officers to hold over and a special election must be called.

02 Absentee or proxy voting is not permitted.

03 Elections are held under the order of "New Business."

04 Votes for ineligible candidates shall not be counted, therefore, the eligible candidate receiving a majority of the votes cast for the eligible candidate, or candidates, shall be declared elected.

05 Ballots shall not be cast after the Exalted Ruler has declared the ballot closed.

06 Members initiated on election night are also qualified to vote.

07 It is improper for a Member to be refused admittance during the voting at an election. Such action does not invalidate the election unless fraud was involved. Members may be excused after voting.

08 There is no statute providing for an election contest or recount. Under Section 3.100 the Grand Exalted Ruler may review an election if irregularities are alleged.

09 Only Members who are not delinquent in their dues may vote in an election. It is proper to check cards and denote on the card that the Member has voted.

10 The voting of an ineligible Member does not void an election unless the result of the election could have been changed by illegal votes.

11 All candidates for election must have equal access to the membership lists to promote their candidacy.
(See also Sec. 12.050, *Opinion 03.*)

12 The Exalted Ruler may appoint tellers to canvass and count votes at an election. Any objection to the method of counting votes must be made before the announcement of the results of the vote.

13 If the Lodge approves, speeches for candidates may be made at the Lodge election.

14 The prescribed date of the election cannot be altered unless that meeting has been

properly postponed for good cause. The regular hour for the meeting and the location where the meeting will be held in the Lodge building may be changed by a vote of the Lodge and proper notification to the membership.

15 Officers retain their office until their successors are duly installed.

16 The Leading Knight cannot preside during an annual election.

17 The Secretary shall prepare a ballot for the annual election as directed by the Lodge. Nicknames of candidates shall not be used thereon.

18 The vote is by secret ballot at an annual election and a Member should not disclose his vote.

19 If the Exalted Ruler questions the notice of withdrawal of a candidate, he should proceed with the election. If elected, the candidate could later resign.

20 A New Lodge instituted after January 1 and before March 31 may elect Officers to serve until the second succeeding April 1.

21 A motion to make an election unanimous is proper under Robert's Rules of Order.

22 A candidate may solicit votes for office as long as there is no violation of Section 9.070(f). This right cannot be abridged by motion, By-Law or order of the Presiding Officer.

23 A By-Law changing the number of Trustees cannot shorten the term for which a Trustee was elected. (*See 3.080, Opinion 08.*)

24 If the ballot for office results in a tie, there is no choice and a new ballot must be taken. The Exalted Ruler has the same right to vote as any other Member.

25 A Member in arrears for dues is not eligible to be nominated for, elected to, installed in or hold office.

26 If on the night of officer elections or installation, the weather or other emergency requires a cancellation of the meeting, such elections or installation shall be postponed to the next regular meeting.

STATUTES ANNOTATED

Section 3.100. All questions arising out of alleged irregularities in the nomination or election of Officers of Lodges may be submitted to the Grand Exalted Ruler who is empowered to render final judgment thereon.

• OPINION •

01 There is no provision for an election contest or a recount of ballots. A candidate declared elected by the Exalted Ruler stands elected unless there is a reversal by the Grand Exalted Ruler under this Section.

• DECISION •

01 Procedural requirements placed on a party relating to the prosecution of an appeal to the Grand Forum are jurisdictional. The failure of a party to follow those requirements will result in an appeal being denied. (*Grand Forum, Case No. 1400, 2016*)

— CHAPTER 4 —
GRAND LODGE

GRAND EXALTED RULER

Section 4.010. The Grand Exalted Ruler shall preside at all Grand Lodge Sessions. On the first day of the Annual Session he shall nominate, subject to the confirmation by the Grand Lodge, a Grand Justice for a term of five years. Any vacancy occurring in said position during the Grand Lodge year shall be filled until the next Grand Lodge Session by appointment of the Grand Exalted Ruler.

On the first day of each Grand Lodge Session the Grand Exalted Ruler shall appoint three members to a Committee on Resolutions.

Section 4.020. The fiscal year of the Grand Lodge shall commence on the 1st day of June of each year and extend through the 31st day of May of the following year.

Section 4.021. The Grand Exalted Ruler, immediately following his installation, shall nominate Members, subject to the confirmation by the Grand Lodge, to the following:

- (a) A Trustee of the Elks National Foundation for a term of seven years.
- (b) A member of the National Memorial and Publication Commission for a term of five years.
- (c) A member of the Elks National Veterans Service Commission for a term of five years.
- (d) A member of the Elks National Convention Commission for a term of five years.

Those Members of the Grand Lodge holding appointive positions under the above, and whose term is expiring may be reappointed. Vacancies occurring in the above during the Grand Lodge year shall be filled until the next Grand Lodge Session by appointment of the Grand Exalted Ruler. At the ensuing Grand Lodge Session, the unexpired terms shall be filled as first above provided.

STATUTES ANNOTATED

Section 4.030. Immediately following his installation, the Grand Exalted Ruler shall designate the Chief Justice of the Grand Forum and appoint committee members for a term of one year, designating a Chair and such Vice-Chairs as he deems necessary, to each of the following Committees: Activities, Auditing and Accounting, Fraternal, Government Relations, Public Relations, Judiciary, and Ritualistic.

Section 4.040. The Grand Exalted Ruler shall administer the oath of office to the Designated District Deputy Grand Exalted Rulers.

Section 4.050. The Grand Exalted Ruler shall be allowed all necessary expenses incident to his office and incurred in the administration thereof.

Section 4.060. The Grand Exalted Ruler shall have power, with the approval of the Board of Grand Trustees, to call a Special Grand Lodge Session; the call shall state the business to be considered, fix the place where and the time when the Session shall be held, which time shall be not less than thirty days from the issuance of the call. No business other than that stated in the call shall be considered.

Section 4.070. The Grand Exalted Ruler shall present to each regular Grand Lodge Session, a complete printed report which shall also contain his suggestions and recommendations.

Section 4.080. The Grand Exalted Ruler shall have the right, and it shall be his duty to visit any Lodge whenever in his judgment it will promote the good of the Order.

• OPINION •

01 To carry out the responsibilities under this Section, the Grand Exalted Ruler may designate any Member to accompany him and/or visit a Lodge. The expenses incurred

in the performance of such assignments shall be paid by the Grand Lodge upon approval of the Grand Exalted Ruler.

Section 4.090. All documents and correspondence of the office of the Grand Exalted Ruler are records of the Order.

Section 4.100. The Grand Exalted Ruler, on the advice of the National Convention Commission and the Advisory Committee with the approval of the Board of Grand Trustees, may change the time or place of holding the ensuing regular Grand Lodge Session. The Grand Exalted Ruler shall promulgate an order designating the new time and place, and specifying therein the reasons therefor.

Section 4.110. In all cases where power and authority to do an act is granted by Constitution or Statute, and the power is not vested elsewhere, the same is hereby vested in the Grand Exalted Ruler.

GRAND SECRETARY

Section 4.120. The Grand Secretary, before entering upon the discharge of his duties, shall execute to the Order a bond approved by the Chairman of the Board of Grand Trustees. Said bond shall be conditioned upon faithful performance of his duties and the safe keeping of all funds of the Order and property in his possession. The premium for such bond shall be paid by the Order.

He shall keep a record of all Dispensations and Charters suspended or forfeited together with a brief and accurate history of the reasons therefor. He shall prepare all forms for the use of the Grand Lodge and Local Lodges, except those used for the payment of claims against the Order, which shall be prepared by the Board of Grand Trustees.

He shall keep an accurate record of all suspended and expelled members of the Grand Lodge and Local Lodges, and other records and membership rolls as the Grand Lodge may prescribe.

He shall be the custodian of the seal of the Grand Lodge, and shall sign and attest with the seal all official papers and documents required to be signed by him or to which the seal is required to be affixed.

He shall receive and receipt for all funds of the Order required to be paid to him, unless otherwise directed by the Grand Lodge. All funds of the Order received shall be deposited in banks, trust companies or other financial institutions designated in writing by the Board of Grand Trustees. He shall make a monthly report to the Board of Grand Trustees of all funds received and deposited. He shall keep segregated accounts of the receipts and expenditures of the Order so that fund balances can be readily ascertained. He shall keep separate accounts of each Lodge with the Grand Lodge.

He shall prepare an annual itemized report of the transactions of his office, including a statement showing receipts and expenditures. He shall present at the opening Grand Lodge Session a report of receipts and expenditures for the Grand Lodge year. The report shall contain statistical information essential for the guidance of the Grand Lodge in its work.

The official emblem of the Order shall be licensed for use on manufactured products by the Grand Secretary.

He shall be assigned suitable offices in the Grand Lodge Headquarters and may employ necessary personnel.

He shall devote full time to the duties of his office, and deliver to his successor all the records, correspondence, property, and other effects of the Grand Lodge in his possession.

He shall receive a salary fixed by the Board of Grand Trustees.

Section 4.130. The Grand Secretary or his designee shall act as Clerk of the Grand Forum, shall preserve all files and records of the same, and have custody of its seal.

STATUTES ANNOTATED

Section 4.140. The Grand Secretary shall keep a true record of the proceedings of the Grand Lodge, shall cause the same to be printed and distributed to all Lodges, to the Officers and members of Grand Lodge Committees as soon as practicable after the adjournment of each Session. The records shall not contain addresses or debates, except when the Grand Lodge or Grand Exalted Ruler shall so direct.

He shall have charge of all the records, books, papers, and documents of the Grand Lodge. He may destroy any records, books, papers and documents, the further preservation of which is unnecessary for the good of the Order; provided, however, that all records, books, papers, and documents shall be preserved for a period of at least five years after receipt in the Grand Secretary's Office.

He shall be the custodian of all title deeds and other evidences of title or liens and all insurance policies.

He shall prepare all Dispensations and Charters for Lodges, and keep a complete record thereof in his office.

The Grand Secretary shall keep accounts of receipts and disbursements which will disclose the condition of any fund at any time.

He shall prepare a printed report of all receipts and expenditures covering the period of the Grand Lodge year up to and including the 31st day of May, and thereafter shall prepare and submit to the Grand Exalted Ruler, a supplemental report of all receipts and expenditures for the balance of the Grand Lodge year. The complete report shall then be presented to the Grand Lodge at its opening session and incorporated in the published proceedings of the Grand Lodge.

The funds of the Order coming into his hands directly and any increment thereto shall be deposited by him to the credit of the Order in a financial institution designated in writing by the Board of Grand Trustees.

He shall pay claims against the Order processed as provided in Section 5.050 from allocated funds.

He shall, on official notice from the Chairman of the Board of Grand Trustees that his successor has qualified, transfer to his successor all the funds, records, property and correspondence pertaining to his office, taking a receipt therefor in triplicate. He shall retain the original receipt and file a duplicate with the Chairman of the Grand Trustees.

The Grand Secretary shall review and verify the credentials of the Members of the Grand Lodge and the existence of a quorum, and report at the Grand Lodge Session. He shall resolve all questions regarding the eligibility of Members of the Grand Lodge to vote, subject to the approval of the Grand Lodge.

Section 4.150. The Grand Secretary shall maintain a supply of approved reporting forms and send the necessary blank forms at timely intervals to Lodges or other persons required to supply needed information.

THE CHAIR OFFICERS

Section 4.160. The Grand Esteemed Leading Knight, the Grand Esteemed Loyal Knight and the Grand Esteemed Lecturing Knight shall perform the duties prescribed by the Laws of the Order or assigned by the Grand Exalted Ruler.

OTHER GRAND LODGE OFFICERS

Section 4.180. The Grand Tiler shall maintain his position at the outer door of the room in which the Grand Lodge Sessions are being held, and shall examine the credentials of Grand Lodge Members and the membership cards of other members of the Order. He shall be the custodian of all regalia, jewels and other like property of the Grand Lodge during the Session thereof.

Section 4.190. The Grand Esquire shall organize the Grand Lodge, by requiring each Officer to take his proper station, and by excluding persons not qualified to remain. He shall promptly execute orders of the Grand Exalted Ruler and the Grand Lodge.

Section 4.200. The Grand Inner Guard shall maintain his position at the inner door of the Grand Lodge and allow none but those who are qualified, to enter, and shall execute the orders of the Grand Exalted Ruler and the Grand Lodge.

Section 4.210. The Grand Chaplain shall conduct the devotional exercises of the Grand Lodge, and perform such other duties as pertain to his office.

GRAND TRUSTEES

Section 4.220. The Board of Grand Trustees is the general fiscal agent of the Order, and, unless otherwise provided by the Grand Lodge, shall have general authority over all funds and property belonging to the Order. It shall be the custodian of the bonds given by the Grand Lodge Officers. It shall be responsible for the purchase of all supplies for the Order utilizing competitive bids where practical. No member of the Board shall have an interest directly or indirectly in any purchase. The Board shall designate in writing the percentage above actual cost, F.O.B. Chicago, not exceeding ten percent, for all supplies purchased from the office of the Grand Secretary by Lodges, State Associations and Members of the Order. The Board, with advice of the Advisory Committee, shall have power to purchase, sell, grant, lease and encumber all real and personal property of the Order, and to authorize, designate and direct all benefit programs for Grand Lodge employees.

A majority of the members of the Board shall constitute a quorum for the transaction of business.

STATUTES ANNOTATED

The Board shall organize annually by electing a Chairman, a Vice-Chairman, a Secretary and an Approving Member. The Chairman, or in his absence or disability, the Vice-Chairman, shall preside at meetings of the Board, and the Secretary shall keep, in writing, an accurate record of the proceedings of the Board, and deliver the same to his successor in office.

Section 4.231. The Board of Grand Trustees shall acquire and cause to be effective a master general liability insurance policy which, by and subject to its terms shall indemnify, or pay on behalf of, if legally obligated, the Order, the Grand Lodge, each State Association, each Local Lodge, each corporation organized and existing under Section 16.030 of these Statutes and each organized group for which there has been granted and there is outstanding a dispensation for the institution of a Lodge, and their respective Officers, Members, Representatives, agents and employees from and against claims of third parties for wrongful death, personal injuries and property damage arising out of the operations of those entities.

The policy shall be effective October 1, 1984. The Board of Grand Trustees is authorized and empowered to assess annually each Local Lodge, on a per capita basis, an amount necessary to fund premium payments for insurance coverage, claims paid directly by the Grand Lodge, and related administrative expenses commencing October 1, 1984 to April 1, 1985 and annually thereafter. The funds so collected shall be deposited in the Self Insurance Fund and disbursements therefrom shall be made by the Grand Secretary for the express purpose set forth herein. An Annual re-determination of the per capita assessment may be made so as to insure adequate funding of the master general liability program. An annual accounting of such funds shall be made by the Grand Secretary and reported as a separate fund in the annual financial statement of the Grand Lodge.

A Local Lodge shall, by By-Law, provide for the collection of the per capita assessment from each Member in addition to his dues and from each Life Member. The Lodge is responsible for the payment of the per capita assessment to the Grand Secretary.

Section 4.232. The Board of Grand Trustees shall acquire by contract with a qualified insurance company, and maintain in effect, a master comprehensive all risk of physical loss and crime coverage program for the properties and functions of the Grand Lodge, each Local Lodge, and separate corporations organized and existing under Section 16.030 of the Grand Lodge Statutes as they shall require from time to time, and shall be available. Premiums for coverage shall be separately assessed against those entities in such amounts and at such times as will be required to provide the coverage requested and in place.

Each of said entities shall be required to participate in the program. The program shall be effective as to each line of insurance coverage for each entity on the annual date its present policy (policies), in effect on the adoption of this Section, expires.

STATUTES ANNOTATED

Section 4.240. The Board of Grand Trustees shall present a preliminary budget for the Order in itemized form on the first day of the annual Grand Lodge Session. A final budget shall be presented by the Board for modification and adoption prior to the adjournment of Grand Lodge. After the final budget is adopted, all expenditures during the ensuing Grand Lodge year must be kept within the appropriation. The Board between Grand Lodge Sessions may transfer appropriations among items in the budget, provided the total amount appropriated in the budget is not exceeded. The Board shall include in the budget an appropriation for contingent purposes. No expenditures shall be paid out of the contingent fund so appropriated except by action of the Board of Grand Trustees.

The Board shall annually make the following determination for travel allowances which shall become effective on August 1 of each year following the Grand Lodge Session and provide for same in the budget:

- (a) The mileage allowance.
- (b) The per diem while traveling.
- (c) The per diem while in attendance at an authorized activity, and
- (d) When travel is by air, one round trip for the Member and one round trip for a spouse of the Member (by the most direct route) by the lowest logical economy class fare, if available.

In no event shall the travel allowance exceed coach air fare plus applicable per diem.

Past Grand Exalted Rulers, Officers of the Grand Lodge (except the Grand Exalted Ruler), Justices of the Grand Forum, Special Deputy Grand Exalted Rulers, District Deputy Grand Exalted Rulers, except in making official visits to Lodges, and members of the Committees of the Grand Lodge, when attending Grand Lodge Sessions, or attending Committee meetings or when on other official business, shall be reimbursed as set forth above.

Grand Lodge Officers and the members of all Committees of the Grand Lodge shall be reimbursed for all other expenses.

Section 4.250. The Board of Grand Trustees shall meet as often as it may deem advisable, provided that there shall be at least two meetings in each Grand Lodge year. The Grand Exalted Ruler shall have the power to convene the Board at any time. It shall submit a printed report to the Grand Lodge at each Annual Session.

Section 4.260. The Board of Grand Trustees may, whenever it deems it necessary for the good of the Order, divide the United States, and its insular and other possessions into districts and designate by name and number the Lodges to be embraced in each district.

STATUTES ANNOTATED

ELKS NATIONAL FOUNDATION

Section 4.270. The Board of Trustees of the Elks National Foundation shall have the following powers and duties in addition to those set forth in Article V of the Constitution:

- (a) To elect its Officers.
- (b) To adopt rules for the conduct of its business.
- (c) To require bonds from its Officers and employees.
- (d) To employ personnel.
- (e) To submit its budget to the Board of Grand Trustees for review and approval.

NATIONAL MEMORIAL AND PUBLICATION COMMISSION

Section 4.280. The National Memorial and Publication Commission is composed of five members, whose term of office shall be five years, and until their respective successors have been appointed and confirmed. The Commission shall have the following powers and duties:

- (a) To elect its Officers.
- (b) To adopt rules for the conduct of its business.
- (c) To require bonds from its Officers and employees.
- (d) To pay the expenses of the Commission out of funds under its control provided that no Commission member shall receive any compensation for his services.
- (e) To keep an accurate account of its receipts and expenditures and to make an annual report in writing to the Grand Lodge of its activities and expenditures.
- (f) To commission, edit, publish and distribute *The Elks Magazine* as the official organ of the Order.
 1. It shall contain such official communications and announcements as may be determined by the Commission.
 2. A copy of each issue of the magazine shall be mailed or transmitted electronically as a paid-up subscription to each Lodge and to each Member of the Order upon the rolls of the respective Lodges, to his designated address; provided, however, that if two (2) or more Members designate the same address, only one copy of each issue of the magazine shall be mailed to that address unless a Member requests, in writing, to receive the magazine. In lieu of mailing, electronic transmission of the magazine shall be done at the request of the Member.
- (g) To employ personnel.
- (h) To fix the subscription price of *The Elks Magazine* to non-Member subscribers therefor and for extra copies thereof; and to distribute copies without charge.

STATUTES ANNOTATED

- (i)* To sue and be sued, at law or in equity upon causes of action arising out of the conduct of its business or in the administration of its affairs.
- (j)* To invest its funds in banks, trust companies, or other financial institutions designated in writing by the Commission.
- (k)* To submit its budget to the Board of Grand Trustees for review and approval.
- (l)* To execute all contracts with respect to its duties.

ELKS NATIONAL VETERANS SERVICE COMMISSION

Section 4.290. The Elks National Veterans Service Commission shall be composed of five members whose term of office shall be five years, and until their respective successors have been appointed and confirmed. The Commission shall have the following powers and duties:

- (a)* To promulgate and supervise the Order's program for the benefit of members of the Armed Forces of the United States and the veterans of such services.
- (b)* To annually elect its Officers.
- (c)* To adopt rules for the conduct of its business.
- (d)* To employ personnel.
- (e)* To require bonds from its Officers and employees.
- (f)* To pay expenses of the Commission out of the funds under its control, provided that no Commission member shall receive any compensation for his services.
- (g)* To keep an accurate account of its receipts and expenditures and make an annual report in writing to the Grand Lodge of its activities and expenditures.
- (h)* To receive funds appropriated by the Grand Lodge for the conduct of the program. All funds in excess of the year's operating budget shall revert to the Order and be subject to appropriation annually in accordance with the approved budgeted requirements.
- (i)* To submit its budget to the Board of Grand Trustees for review and approval.

ELKS NATIONAL CONVENTION COMMISSION

Section 4.300. The Elks National Convention Commission is composed of five members whose term of office shall be five years, and until their respective successors have been appointed and confirmed. The Commission shall have the following powers and duties:

- (a)* To elect its Officers.
- (b)* To provide the facilities for the Grand Lodge Session, exhibitions and other attractions.
- (c)* To receive proposals from cities for Grand Lodge Sessions and submit its recommendations to the Grand Lodge Advisory Committee.

STATUTES ANNOTATED

- (d)* To execute all contracts with respect to its duties and to institute suit.
- (e)* To submit its budget to the Board of Grand Trustees for review and approval.
- (f)* To employ personnel.

COMMITTEES

Section 4.310. The Advisory Committee, consisting of all Past Grand Exalted Rulers, shall advise with and extend its counsel to all Grand Lodge Officers and Committees, and shall have the following duties and authority:

- (a)* To elect its Officers.
- (b)* To adopt rules for the conduct of its business.
- (c)* To appoint Subcommittees from its membership.
- (d)* To hold meetings and to specify the dates and places for such meetings.
- (e)* To recommend to the Grand Exalted Ruler the sponsorship by Past Grand Exalted Rulers for each state or area containing Lodges.
- (f)* To recommend to the Grand Exalted Ruler areas for Grand Lodge Committee assignments.
- (g)* To recommend candidates for Grand Lodge offices.
- (h)* To recommend nominees for those positions set forth in Sections 4.010 and 4.021.
- (i)* To recommend Grand Lodge Committee appointments.
- (j)* To recommend all District Deputy Grand Exalted Ruler and Special Deputy Grand Exalted Ruler appointments.
- (k)* To recommend constitutional and statutory amendments.
- (l)* To review the following reports:
 1. District Deputy Grand Exalted Rulers visitations.
 2. Lodge period membership reports.
- (m)* To assist the Grand Exalted Ruler.
- (n)* To recommend the removal of Lodge and State Association Officers.
- (o)* To recommend the probation, suspension or revocation of the Charters or Dispensations of Lodges.
- (p)* To engage in other activities which will promote the good of the Order.

Section 4.321. The National Anthem of the U.S.A., also known as the “Star Spangled Banner,” is to be sung only with lyrics by Francis Scott Key and with melody as adopted by the Congress of the U.S.A. in the year 1931 in no language other than “ENGLISH” and with no variations to the melody.

Section 4.330. The Committee on Auditing and Accounting after competitive bidding shall employ certified public accountants to examine the books, records and accounts of the Officers, Commissions and other agencies of the Order, and it shall report the result of audits to the Grand Lodge and file the reports with the Grand Secretary.

The Committee shall prepare and distribute a Uniform Chart of Accounts for Lodges. Each Lodge shall adopt and use the Uniform Chart of Accounts.

The Committee on Auditing and Accounting shall establish an on-line Financial Reporting System [FRS] for Local Lodges. The Committee shall review a copy of the FRS report of each Lodge. It shall evaluate the report and make recommendations to the Lodge. It shall report suggestions to the Grand Lodge for improvements in accounting procedures. The annual cost of the system shall be assessed to each Local Lodge, to be paid at the time of payment of Grand Lodge per capita assessments, beginning on April 1, 2020.

Section 4.340. The Committee on Charity and Emergency composed of the Grand Exalted Ruler as Chairman and the Grand Esteemed Leading, Loyal and Lecturing Knights shall supervise the emergency charity work of the Order.

Section 4.345. The Activities Committee shall promote, support and oversee the following Grand Lodge Programs:

- (a) **Community Project**, through which Local Lodges establish and maintain programs and activities having particular significance to their local communities.
- (b) **Youth Activities**, through which programs and activities benefiting the youth of our country are conducted, both nationally and at the local level.

Section 4.355. The Fraternal Committee shall promote, support, and oversee the following Grand Lodge Programs:

- (a) **Americanism**, through which the patriotic activities of the Order are maintained.
- (b) **Flag Day**, to assist Local Lodges in holding Flag Day services as prescribed in the Ritual of the Order, as well as generally promoting respect for the flag of our country.
- (c) **Elks Memorial Day**, to promote and support the observance of Elks Memorial Day as prescribed in the Ritual of the Order.
- (d) **Lodge Activities/State Associations**, to promote and assist in all matters relating to Lodge activities and the organization and government of State Associations and the activities sponsored or recommended by the Grand Lodge or the Grand Exalted Ruler.

STATUTES ANNOTATED

Section 4.356. The Committee on Government Relations is charged with the duty and responsibility of implementing a Government Relations Program of the Order.

Section 4.357. The Committee on Public Relations and Membership Marketing is charged with the duty and responsibility of implementing a Public Relations and Membership Marketing Program of the Order, which will include the recruitment, investigation, indoctrination, initiation, lapsation and reinstatement of Members.

Section 4.370. The Committee on Judiciary shall be the legal advisor to the Grand Lodge and shall have the following duties and authority:

- (a) To have referred to it and to report upon all proposed legislation and amendments.
- (b) To propose at each Grand Lodge Session such legislation as it deems advisable.
- (c) To represent the Grand Lodge in any matter when directed by the Grand Exalted Ruler, the Board of Grand Trustees or the Grand Forum.
- (d) To approve all Articles of Incorporation, By-Laws, rules and regulations of Lodges, and Homes or Clubs connected therewith, including revisions and amendments and send copies to the Grand Secretary. None of the above are effective unless and until approved.
- (e) To approve the Articles of Incorporation, Constitutions, By-Laws and rules of State Associations, and all corporations and other entities formed by or on behalf of State Associations, including revisions and amendments, and send copies to the Grand Secretary. None of the above shall be effective unless and until approved by the Committee on Judiciary.
- (f) To appear before the Grand Forum and participate in any action, matter or proceeding pending therein. The Grand Exalted Ruler and Chief Justice of the Grand Forum can mandate the appearance and participation of the Committee on Judiciary.
- (g) To certify that it has examined the work of the Publications Committee composed of the retiring Grand Exalted Ruler, the prior year's Chairman of the Committee on Judiciary and the Grand Secretary in editing and publishing the Laws of the Order and Proceedings. The certification shall be included in the published laws.

STATUTES ANNOTATED

- (h) To approve all non-profit corporations and charitable trusts as permitted by Article III, Section 18. None of the above is effective unless and until approved.
- (i) To make non-substantive, technical corrections in connection with the publication of the Constitution and Statutes Annotated in order to implement the resolutions approved by the Grand Lodge. No changes in meaning shall occur.

• OPINIONS •

01 Submission of By-Laws to the Committee on Judiciary must be in conformity with the regulations set out in the guide By-Law.

02 The Committee has no power or authority to review or comment on the guilt or innocence or adequacy of complaints before the Local Forum.

03 The Committee does not concern itself with the context of an amendment to By-Laws, but only whether the changes are in conformity with the Laws of the Order.

04 Requests for opinions from the Committee should come from a Lodge, its Officers or a Member of the Grand Lodge and contain a brief statement of the facts upon which a decision is desired.

05 There is no requirement for the approval of By-Laws of a Past Exalted Rulers Association.

06 The Committee has no enforcement powers and it may report matters referred to it for administrative action of the Grand Exalted Ruler.

• DECISION •

01 The Committee on Judiciary has no power or authority to review or comment upon the guilt or innocence of an accused or

on the inadequacy of a complaint pending before a Local Forum. (*Grand Forum, Case No. 761, 1989*)

Section 4.410. The Ritualistic Committee shall promote the proper rendition of the Ritual, ritualistic contests and shall at every Grand Lodge Session conduct a ritualistic contest among the winners of State contests for Lodge Officers only. Degree Teams will not be eligible for national contest competition. It shall have referred to it and make recommendations as to changes and modification of the Rituals of the Order. All meetings, special services and Rituals of the Order shall be exemplified only in the English language.

Section 4.440. Every State Sponsor, Committee of the Grand Lodge and District Deputy Grand Exalted Ruler shall have the authority and power to request and receive copies of all books, records, papers, data and other articles, and to require cooperation of the Members as may be necessary in connection with any subject under their jurisdiction.

Section 4.450. Grand Lodge Committees shall meet as directed by the Grand Exalted Ruler.

STATUTES ANNOTATED

DISTRICT DEPUTY GRAND EXALTED RULER

Section 4.460. A District Deputy Grand Exalted Ruler shall be designated for each district established by the Board of Grand Trustees as provided in Section 4.260 as the representative of the Grand Exalted Ruler and shall be recognized as such by the Lodges.

District Deputy Grand Exalted Rulers shall be designated by the Grand Exalted Ruler prior to June 1 of each year.

The designated District Deputy Grand Exalted Rulers shall be directed by the Grand Secretary to attend the next annual Grand Lodge Session and to attend meetings designated by the Grand Exalted Ruler.

District Deputy Grand Exalted Rulers shall be installed in office by taking and subscribing to the following Oath of Office:

“I, _____, having received the appointment of District Deputy Grand Exalted Ruler for _____, do solemnly swear (or affirm) that I will faithfully execute the duties of District Deputy Grand Exalted Ruler, and will to the best of my ability, preserve, protect, defend and enforce the Constitution and Laws of the Benevolent and Protective Order of Elks of the United States of America.”

Should any District Deputy Grand Exalted Ruler-Designate fail, for any acceptable reason, to be present at the time and place designated by the Grand Exalted Ruler, a Past District Deputy shall be designated by the Grand Exalted Ruler to install the District Deputy-Designate.

A District Deputy Grand Exalted Ruler shall, at a regular or special meeting, visit each Lodge in the District at least once prior to December 20 and in connection therewith shall:

- (a) Examine all books and records of the Lodge, Club, Home Association, separate corporation and other entities.
- (b) Verify the amount and adequacy of insurance coverage.
- (c) Prepare a report of his visit on forms provided by the Grand Secretary.
- (d) Prepare a letter of comment regarding deficiencies noted.
- (e) Inspect, examine and report upon the physical and safety conditions of the Lodge and make recommendations relative thereto.

Immediately upon completion of his visits, he shall submit a letter to the State's Sponsor(s), with copies to the Area Member of the Grand Lodge Fraternal Committee and the State President, evaluating the potential of new Lodges in his District.

He shall investigate every complaint filed against an Officer of a Lodge in his District under the provisions of Sections 9.060 or 9.070 and shall file a certificate with the Secretary of the Lodge of the accused Officer whenever he is of the opinion that there was reasonable cause for the filing of said complaint.

In August or September, and March or April, he shall conduct clinics to familiarize the Officers of the Lodges in their District with the Grand Lodge Programs and to assist such Officers in carrying out the programs.

STATUTES ANNOTATED

He shall receive Dispensations from the Grand Exalted Ruler for the institution of new Lodges in his District, institute the same, install the Officers thereof, and deliver to them the Dispensations, the Rituals, books, blanks and other property necessary and proper for a new Lodge. He shall perform all other services required of him by the Grand Exalted Ruler or the Laws of the Order.

(NOTE: See also *Lodge Officer Suspension by DDGER — Sec. 8.180*, and *Lodge Officer Installation by DDGER — Sec. 12.010*.)

• OPINION •

01 A District Deputy may hold any Lodge Office, subject to the conflict of interest rules of the Order.

• DECISIONS •

01 There is no provision in the Grand Lodge Statutes or in the Constitution of the Order which gives the Grand Forum the right or authority to pass upon the qualifications, ability or efficiency of a District Deputy Grand Exalted Ruler with regard to the performance of his official duties. (*Grand Forum, Case No. 469, 1958*)

02 District Deputy Grand Exalted Rulers serve at the pleasure of the Grand Exalted Ruler and can be removed by the Grand Exalted Ruler at his will.

The Grand Forum is without jurisdiction and has no authority to review the removal of a District Deputy Grand Exalted Ruler by the Grand Exalted Ruler. (*Grand Forum, Case No. 941, 1997*)

Section 4.470. Special Deputy Grand Exalted Rulers shall perform such special services which will aid in promoting the good of the Order.

Section 4.480. A District Deputy Grand Exalted Ruler or a Special Deputy Grand Exalted Ruler shall receive the actual necessary traveling and subsistence expenses incurred by him in performing special services and in attending special meetings, when directed by the Grand Exalted Ruler. The actual necessary transportation expenses of the District Deputy Grand Exalted Ruler in making official visits to Lodges in his District, not exceeding the mileage allowance provided for in Section 4.240(a) for each mile traveled in making such visits, shall be paid by the Order. If conditions existing in a Lodge require additional visits, the Grand Exalted Ruler may order other visits made and may require the actual traveling expenses of the District Deputy Grand Exalted Ruler to be paid by the Lodge.

Section 4.500. Any Past Exalted Ruler in good standing, who attends or shall have attended one Grand Lodge Session, shall be eligible to be installed as District Deputy Grand Exalted Ruler for the District in which his Lodge is located.

STATUTES ANNOTATED

Section 4.510. The Grand Exalted Ruler may appoint one or more Members in good standing as Special Representative(s).

The duties and authority of the Special Representative(s) shall be set forth in the Executive Order. The Order may be appealed to the Grand Forum by a majority of the Officers of a Lodge filing a written request therefore with the Grand Secretary within ten (10) days after the service of the Executive Order.

(NOTE: See “Exhibit M” to Forum Rules for Form of Notice of Appeal.)

The Special Representative(s) shall receive the actual necessary traveling and subsistence expenses incurred by him in performing his special services.

• OPINION •

01 A Special Representative must comply with all Laws of the Order in performing his duties under the Executive Order effectuating such appointment. For example, a Special

Representative is without authority to summarily remove or suspend an Officer or Member.

— CHAPTER 5 —

FUNDS AND EXPENDITURES OF THE ORDER

Section 5.010. The revenue of the Order shall be derived from the following sources:

- (a) The annual per capita fee fixed by resolution of the Grand Lodge which includes the subscription cost for *The Elks Magazine*. Local Lodges shall collect the per capita fee from each Lodge Member as a part of his dues and from each Life Member. The Lodge is responsible for the payment of the per capita fee to the Grand Secretary.
- (b) Sale of supplies.
- (c) Revenue of the Elks National Home Corporation.
- (d) Revenues from *The Elks Magazine*.
- (e) Investment income.
- (f) Certificate of Status fees.
- (g) Fees, fines and penalties as may be imposed in accordance with Laws of the Order.
- (h) Gifts to the Order.
- (i) Miscellaneous revenues.

All revenues shall be transmitted to the Grand Secretary, unless otherwise specifically provided by law.

• OPINIONS •

01 The per capita fee must be paid on all Members on the Lodge membership roll on April 1. The date of the Lodge institution or the delinquency or other status of a Member is not material.

02 Except as provided in 14.310, a Lodge cannot exempt any Member from payment of dues and assessments levied by the Grand Lodge.

STATUTES ANNOTATED

Section 5.020. The funds of the Order shall be classified as follows:

- (a) General Fund
- (b) Elks National Home Corporation Fund
- (c) Emergency Charity Fund
- (d) National Memorial and Publication Fund
- (e) Elks National Foundation Fund
- (f) Elks National Veterans Service Commission Fund
- (g) Grand Lodge Reserve Fund

The allocated portions of the per capita fees collected shall be distributed to the several commissions as collected by the Grand Secretary.

Section 5.030. The General Fund shall include all the monies of the Order, except the Emergency Charity Fund, Elks National Home Corporation Fund, National Memorial and Publication Fund, Elks National Foundation Fund, Elks National Veterans Service Commission Fund and Grand Lodge Reserve Fund. The Board of Grand Trustees is authorized and empowered to deposit in the name of the Order the monies of the General Fund and of other Funds under its control in banks or other depositories, and to invest and reinvest said monies in bonds or other securities, and may engage investment counsel to advise and assist it in the proper investments of said monies. The principal and income of the Funds under the control of the Board may be used as the Grand Lodge may authorize or direct; provided, the Board may authorize the use of the income of any of said Funds for any expenditure authorized by the budget.

Section 5.040. No bank or depository shall be designated for the deposit of funds of the Order in which the Grand Exalted Ruler, the Grand Secretary, a Grand Trustee, or any other Officer, agent, or employee of the Order, having custody of Funds of the Order, is an Officer or Director.

Section 5.050. No disbursement shall be made from any of the Funds of the Order under the control of the Board of Grand Trustees, except as provided in the budget. A proper voucher for each expenditure shall be prepared by the Grand Secretary and a record of the same made by him which shall be approved by the Approving Member of the Board of Grand Trustees. Checks drawn against said Funds of the Order may be signed by the Grand Exalted Ruler or the Grand Secretary and shall be valid and effective when signed by either of those Officers and the Controller. Notwithstanding the foregoing, all expense vouchers submitted by District Deputy Grand Exalted Rulers, Special Deputy Grand Exalted Rulers, Grand Lodge Officers and Committeemen and Past Grand Exalted Rulers shall be paid on approval by the Grand Secretary and Controller and the checks signed by the Controller and the Grand Secretary or the Grand Exalted Ruler.

STATUTES ANNOTATED

Section 5.060. The Emergency Charity Fund shall consist of all unexpended balances in the Emergency Charity Fund and all funds allocated thereto. This Fund may be invested in securities approved by the Board of Grand Trustees. This Fund shall be under the control of the standing Committee on Charity and Emergency and the Board of Grand Trustees, and payments therefrom shall be made only on the written order of the Grand Exalted Ruler and the approval in writing of a majority of the Board of Grand Trustees. The Board may, by resolution, establish a revolving fund not to exceed \$2,500.00 for use of the Grand Exalted Ruler, so that in emergencies payments therefrom may be made by him without delay.

Section 5.070. The Board of Grand Trustees is authorized and directed to appropriate annually a sum not to exceed Ten Thousand Dollars (\$10,000.00) for the assistance of worthy and needy Members of the Order who are suffering from diseases of an incurable character or from total disability, and who are without funds or property or relatives able or willing to care for them. The Board may by resolution place in the hands of the Grand Exalted Ruler an amount not to exceed One Thousand Dollars (\$1,000.00), so that authorized payments may be made regularly by him. The monies so appropriated shall be administered by the Grand Exalted Ruler with the consent of a majority of the Board of Grand Trustees. The Lodge of the assisted Member shall contribute toward the relief of the Member an amount not less than one-half of the sum that is contributed by the Order.

Section 5.071. The Grand Lodge is authorized to accept funds contributed for the purpose of furnishing aid in case of a disaster or catastrophe, and distribution shall be made at the discretion of the Grand Exalted Ruler with permission of the Board of Grand Trustees.

Section 5.080. The National Memorial and Publication Fund shall consist of all monies raised for the purpose of the maintenance and publication of *The Elks Magazine*. The Fund is hereby appropriated for that purpose.

Section 5.090. The Board of Grand Trustees shall at each Grand Lodge Session present resolutions, to set aside revolving funds for the use of the Grand Exalted Ruler, the Grand Secretary, the Board of Grand Trustees, and the use of the Elks National Foundation Trustees, so that authorized payments may be made without delay.

— CHAPTER 6 —

ELKS NATIONAL HOME CORPORATION

Section 6.010. An Elks National Home Corporation has been established as a separate non-stock, non-profit Virginia Corporation, with the Benevolent and Protective Order of Elks of the United States of America being its sole member.

The assets of the Corporation and all corporate matters are managed and controlled by a Board of Directors which shall consist of the duly elected and installed Grand Trustees of the Order. The Board of Directors shall have authority to act in all corporate matters to the full extent allowed by applicable laws.

NOTE: Sections 6.020 through 6.100, all of which referred to the operation of the Elks National Home, have hereby been repealed and have been deleted in their entirety.

— CHAPTER 7 —

GRAND FORUM

Section 7.010. The Grand Forum shall meet at times and places designated by the Chief Justice.

Section 7.020. The Grand Forum shall have the following jurisdiction:

(a) Original jurisdiction:

1. Complaints against a Lodge by another Lodge.
2. Complaints against a Lodge by a Member of the Order.
3. Complaints filed under Section 9.080.

(b) De novo jurisdiction:

1. An appeal of an Executive Order.
2. An appeal of a Local Forum verdict by the Grand Exalted Ruler.
(Section 8.220c)

(c) Appellate jurisdiction over decisions of the Local Forum (Section 8.230) and decisions of a Lodge governing body as provided for in Section 14.170 and for review of compliance with the procedural provisions of Sections 12.140 and 12.141 in applicable cases.

• OPINIONS •

01 A certified copy of a decision of the Grand Forum on file in the office of the Secretary of a Lodge may be examined by any Member of that Lodge. The decisions rendered by the Grand Forum need not be read at a meeting of the Lodge unless ordered by the Lodge or the Grand Forum.

02 A Lodge refusing to drop from its rolls a Member admitted to its membership contrary to the provisions of Section 14.080 may be proceeded against under this Section.

(See 14.010, Decisions 01-05.)

STATUTES ANNOTATED

• DECISIONS •

01 The Grand Forum is a judicial and not an advisory body and will not entertain petitions except in actual controversies wherein relief is sought. (*Grand Forum, Case No. 11, 1908.*)

02 The Grand Forum may hold a Secretary of a Lodge in contempt for failure to transmit certified copy of the pleadings and minutes and transcript of evidence in case of appeal and may order his suspension from office and from membership. (*Grand Forum, Case No. 174, 1918.*)

03 The Grand Forum shall issue a mandamus to compel an Exalted Ruler to select and assemble a Local Forum in accordance with the Laws of the Order. (*Grand Forum, Case No. 298, 1926.*)

04 Original jurisdiction of Grand Forum includes controversies or actions between a Member of the Order and a Local Lodge. The Grand Forum does not have original jurisdiction in a petition of a Member against the Officers and Committees of a Lodge, but which is not against the Lodge itself. (*Grand Forum, Case No. 425, 1950.*)

05 An original complaint against a Lodge must charge a violation of one of the subsections of Section 9.130. No statutory provision allows the Grand Forum to order a Lodge to pay a money judgment upon a

complaint requesting monetary compensation for breach of contract for services rendered to the Lodge. (*Grand Forum, Case No. 1184, 2010*)

06 Local Forums have original jurisdiction in all matters involving charges against a Member of a Local Lodge and the Grand Forum has only appellate jurisdiction from the Local Forum case. (*Grand Forum, Case No. 543, 1971*)

07 The Grand Forum, after careful deliberation and study of Grand Lodge Statutes and especially in view of the provisions of Section 3.100 has concluded that it does not have jurisdiction to decide questions arising out of alleged irregularities in the nomination or election of Officers of Local Lodges and that such questions must be submitted to the Grand Exalted Ruler. (*Grand Forum, Case No. 576, 1976*)

08 The Grand Forum has appellate jurisdiction for review of compliance with procedural provisions of GLS 12.140 pursuant to GLS 7.020(c). (*Grand Forum, Case No. 1004, 2001*)

09 The Grand Forum does not have original jurisdiction in a Complaint by a Member against the Officers and Committees of a Lodge. (*Grand Forum, Case No. 1019, 2002.*)

Section 7.030. The Chief Justice shall designate a Grand Justice to preside at the trial held under subsections *(a)* and *(b)* of Section 7.020. Motions by the parties must be filed within fifteen (15) days after service of a complaint or notice of appeal. The adverse party to the motion shall have fifteen (15) days to answer the motion and the moving party shall have five (5) days to reply to the answer.

Copies of all documents shall be sent to the Grand Secretary and served on the opposing party or his counsel either personally or by mail to his address of record. The date of mailing or acknowledgment of the personal service will determine the date of receipt for the purpose of computing time limitations.

Section 7.040. The following procedure will be used by the Grand Forum on appeals from Executive Orders:

- (a)* Motions to dismiss or make more specific shall be filed within fifteen (15) days after the notice of appeal has been filed with the Grand Secretary. See Sections 9.010, 9.040, 9.110 and 9.160.
- (b)* The adverse party to the motion shall have fifteen (15) days after service of the motion to file an answer.

STATUTES ANNOTATED

- (c) The moving party shall have five (5) days after the service of the answer to file a reply.

Copies of all documents filed under this Section shall be sent to the opposing party and to the Grand Secretary by mail which will establish the date of service for the purpose of time limitations.

• DECISION •

01 An original complaint filed in the Grand Forum which fails on its face, to allege facts giving the Grand Forum jurisdiction is sub- ject to Motion to Dismiss or to make more specific and will be dismissed. (*Grand Forum, 1968*)

Section 7.050. After the Grand Justice has ruled on the motions filed under Sections 7.030 and 7.040, he shall set a trial date for the matter. This date shall be set as expeditiously as possible at a time agreeable to all parties concerned, but in any event not more than ninety (90) days after the ruling on the last motion.

Section 7.060. Trials required under its original jurisdiction shall proceed as follows:

- (a) Either party to the action may make opening statements.
- (b) Testimony shall be introduced by the complaining party.
- (c) Testimony of the accused party.
- (d) Rebuttal witnesses of the complaining party.
- (e) Either party may make closing arguments with the complaining party having the right to open and close.

Each witness shall be subject to cross examination after the presentation of his direct testimony.

Parties to the action may be represented by counsel who are Members of the Order, unless otherwise ordered by the Chief Justice.

The testimony shall be recorded. It shall not be necessary to transcribe the testimony unless a rehearing is requested. The cost of transcribing shall be paid for by the party requesting the rehearing. The party opposing the motion for rehearing shall be entitled to purchase a copy of the transcription.

The motion for rehearing shall be filed within thirty (30) days after the decision has been rendered. The transcription shall be furnished within twenty (20) days after the filing of the rehearing motion.

The motion for rehearing shall be ruled upon by the entire Grand Forum. Briefs on the rehearing motion shall be filed as follows:

- (f) A supporting brief shall be attached to the motion.
- (g) An answer shall be filed within ten (10) days after receipt of the motion.
- (h) A reply shall be filed within ten (10) days after receipt of the answer.

Failure to timely file any brief will be considered as a waiver of the right to do so. A postponement of the filing times may be made by the Grand Justice.

STATUTES ANNOTATED

Section 7.070. At the hearing on the appeal of an Executive Order testimony shall be recorded and will be produced as follows:

- (a) The Chairman of the Committee on Judiciary or his designee shall introduce testimony in support of the Executive Order.
- (b) The appellant may then introduce testimony.
- (c) Each party to the action may then introduce rebuttal testimony.
- (d) The parties may then make closing arguments with the counsel for the Grand Exalted Ruler having the right to open and close. Either party may elect to submit the case without argument.

The appellant may be represented by counsel who is a Member of the Order, unless otherwise ordered by the Chief Justice.

The recorded testimony shall be transcribed and copies made available to all Grand Justices for review. The decision will be made by the Grand Forum en banc.

The cost of recording and transcribing the testimony shall be paid by the non-prevailing party to the appeal. A bank check or money order in the amount of One Thousand Dollars (\$1,000.00) shall be attached to the notice of appeal as a deposit to cover the cost of the transcription. This deposit will be fully refundable upon the appellant prevailing. If the appeal is unilaterally withdrawn, the deposit will be refunded to the appellant, after deduction of actual expenses incurred by the Grand Lodge. Any refund of the deposit due will be promptly made by the Grand Secretary upon receipt of the decision of the Grand Forum.

• OPINION •

01 A Lodge cannot pay the appeal costs on behalf of a Member.

• DECISION •

01 The Grand Forum in an Opinion and/or Decision shall have the right to make a part of the order a direction for the non-prevailing party to pay the balance of transcribing and other costs. (*Grand Forum, Case No. 710, 1986*)

Section 7.080. The trial procedure set forth in Section 8.100 et seq. shall be followed by the Grand Justice presiding at trials provided for in Sections 7.020 (a)(3) and 7.020(b).

Section 7.090. On appeals by an accused found guilty by the Local Forum the Grand Forum may:

- (a) Affirm the decision.
- (b) Reverse the decision in which instance it may:
 1. Set the decision aside.
 2. Remand the matter for retrial with instructions.

STATUTES ANNOTATED

- (c) Increase the sentence if less than the minimum provided by Statute.
- (d) Reduce the sentence if it exceeds the penalty provided by Statute.
- (e) Dismiss the appeal for failure to timely file or properly prosecute the appeal.

• OPINION •

01 Where there is some legal evidence to sustain the findings of a Local Forum, the verdict will not be set aside as being against the preponderance of the evidence.

• DECISIONS •

01 The failure of the Local Forum to fix a proper sentence is not grounds for setting aside the verdict. The Grand Forum may modify the sentence to comply with the Laws of our Order. A Local Forum cannot be recalled for any purpose. (*Grand Forum, Case No. 212, 1921*)

02 Where the evidence clearly and conclusively establishes defendant's guilt of a higher grade of an offense than that determined by the Local Forum, the Grand Forum may modify the judgment of the Local Forum by ordering a proper judgment. (*Grand Forum, Cases No. 382 & 383, 1937*)

03 Grand Forum is empowered to reverse a Local Forum decision and remand for further proceedings according to law. (*Grand Forum, 1968*)

04 Where a Member committed a flagrant and unjustified physical assault upon a District Deputy in performance of his duty, the sentence in the Local Forum was suspension for 90 days. Upon appeal by Grand Exalted Ruler, the Grand Forum was justified in raising the punishment to expulsion from the Order. (*Grand Forum, Case No. 447, 1954*)

05 Where a verdict of guilty is rendered by a Local Forum, but no penalty is imposed, the Grand Forum may, in its discretion, impose an appropriate sentence without the necessity of a trial de novo upon the merits after an appeal is taken by the Grand Exalted

Ruler. (*Grand Forum, Case No. 713, 1986*)

06 On appeal, the Grand Forum will give careful attention to the Record on Appeal to determine whether due process has been afforded the accused in the Local Forum. (*Grand Forum, Case No. 525, 1967*)

07 The Grand Forum concludes that any assignment of error not contained in Appellant's opening brief has been abandoned. However, the Grand Forum notes for the record that any objection to the composition of a Local Forum must be raised before the commencement of the trial and the taking of any testimony. Further, any complaint based upon the failure of a Local Forum to subpoena witnesses must be made before the conclusion of the trial and the submission of the case for decision. (*Grand Forum, Case No. 560, 1974*)

08 Objections to the appointment of the Local Forum must be made prior to the commencement of the trial and the taking of any testimony or the same will be considered waived. (*Grand Forum, Case No. 774, 1989*)

09 The Grand Forum is fully warranted in reversing a conviction by a Local Forum and dismissing the complaint when it appears that substantial justice has not been done and where no useful purpose will be served in subjecting the accused to a second trial. (*Grand Forum, Case No. 528, 1968, and Case No. 816, 1992*)

Section 7.100. An appellant may request the Chief Justice to stay the execution of the penalty assessed by the Local Forum, or from the provisions of an Executive Order. A copy of the request must be sent to the Lodge Secretary, upon a request of a stay from the penalty assessed by the Local Forum, or, to the Grand Exalted Ruler, upon a request for a stay of the provisions of an Executive Order. The Lodge, or, the Grand Exalted Ruler, as the case may be, shall have ten (10) days after a receipt of the request, to oppose the stay. The Chief Justice shall, within five (5) days thereafter, grant a conditional or unconditional stay or deny the request. If the Chief Justice is unavailable to receive such a request, it may be made to any Member of the Grand Forum.

• OPINIONS •

01 The decision of the Local Forum is final unless a timely appeal is taken. A Grand Justice may upon request grant a stay of execution.

02 Unless a stay of execution is granted, rights and privileges of an Elk are suspended pending a decision on an appeal. *(See 8.180, Opinion 06.)*

• DECISIONS •

01 Where a Member was suspended from Club privileges by his Lodge, and the Grand Forum issued a stay order pending hearing on the merits, this in no way prevents the Local Lodge, in the meantime, from commencing proceedings before the Local Forum to expel such Member from the Order. *(Grand Forum, Case No. 491, 1963)*

02 Where no stay of execution has been granted by the Grand Forum of the judgment of the Local Forum expelling a Member from the Order, the Member does not possess the rights and privileges of an Elk pending disposition of his appeal to the Grand Forum. *(Grand Forum, Case No. 661, 1983)*

Section 7.110. In appeals by an accused, the Grand Forum may receive additional evidence at such time and place as may be designated by the Chief Justice. The hearing may be conducted by a Justice designated by the Chief Justice.

Section 7.120. The Grand Forum shall prepare Rules of Procedure for the Grand Forum and the Local Forum. The Rules of Procedure shall be published as an appendix to the Laws of the Order.

Section 7.130. The Grand Forum and each Local Forum shall have power to impose and enforce penalties assessed and shall have power to issue orders necessary to accomplish its purposes.

The Grand Exalted Ruler shall enforce the penalties assessed by the Grand Forum.

• DECISION •

01 A Member's filing of complaints based on facts and law previously adjudicated in a Local Forum constitutes abuse of the judicial process of the Order and subjects the Accuser

to possible sanctions under GLS 7.130 and 7.150 and shall be dismissed with prejudice by the Presiding Justice. *(Grand Forum, Case No. 1385, 2016)*

Section 7.140. The seal of the Grand Forum shall be a facsimile of the Seal of the Grand Lodge. The clerk of the Grand Forum shall attest all orders, decrees and processes made or issued by the Grand Forum.

Section 7.150. A refusal or failure to obey any process, order or decree of the Grand Forum may constitute contempt and shall be punishable by suspension of all rights and privileges of membership for a period not to exceed three (3) years.

• DECISION •

01 A Member's filing of complaints based on facts and law previously adjudicated in a Local Forum constitutes abuse of the judicial process of the Order and subjects the Accuser

to possible sanctions under GLS 7.130 and 7.150 and shall be dismissed with prejudice by the Presiding Justice. *(Grand Forum, Case No. 1385, 2016)*

— CHAPTER 8 —
LOCAL FORUM

(See also *LOCAL FORUM PROCESS GUIDELINE, Appendix III.*)

Section 8.010. A Local Forum shall have jurisdiction over all cases involving an offense committed against the Laws of the Order by an affiliated or unaffiliated Member of the Lodge. The Local Forum shall decide all cases and prescribe the penalty.

The Local Forum shall consist of the Presiding Justice, as provided for in Section 13.020, and four members as hereinafter provided.

• OPINIONS •

01 Suspension from Club privileges by the House Committee is an administrative procedure, whereas, suspension from Lodge privileges is a judicial function to be performed by the Local Forum. A single action by a Member may result in complaints to both the House Committee and the Local Forum and this will not constitute double jeopardy.

02 Suspension from Lodge membership for a period of time may only be done by the Local Forum. An Exalted Ruler may suspend a Member from a specific meeting but not for a period of time or from Club privileges. A Lodge may not vote to suspend a Member.

03 When several Members are collectively charged on the same offense, each Member may request a separate trial.

04 Objections to personnel of the Local Forum must be made before the trial. The decision of the Presiding Justice is final unless reversed on appeal.

05 Lodge and Club privileges are not to be denied a Member pending his trial before the Local Forum.

06 In the event jurisdiction is taken in accordance with this section, such jurisdiction shall remain until final adjudication or resolution, regardless of whether the Member has received an absolute or transfer dimit.

• DECISIONS •

01 Local Forums have original jurisdiction in all matters involving charges against a Member of a Local Lodge, and the Grand Forum has only appellate jurisdiction from the Local Forum case. (*Grand Forum, Case No. 543, 1971*)

02 A Presiding Justice of the Local Forum should act with impartiality and should not engage in conduct which is contrary to a fair and impartial determination of the issues. Where a Presiding Justice takes an adversarial position with regards to a pending complaint, he has expressed a personal bias and should recuse himself; his subsequent consideration of the case amounts to gross misconduct. (*Grand Forum, Case No. 758, 1988*) (See 13.020, *Decision 02.*)

03 Appellant cannot raise errors on appeal which were not raised in the Local Forum related to bias of the Presiding Justice and promises by the Accuser. (*Grand Forum, Case No. 775, 1989*)

04 The fact that a Member of any given Elks Lodge has been appointed as District Deputy Grand Exalted Ruler does not in any manner or form change his status as being a Member of the Lodge to which he belongs, and a complaint filed against him by a qualified Member of the Lodge should proceed according to applicable statutes irrespective of the fact that the individual accused is a DDGER. (*Grand Forum, Case No. 861, 1994*)

05 A Local Forum does not have the power or authority to remove a Lodge Officer in a Local Forum proceeding. (*Grand Forum, Case No. 995, 2001*) (See 12.141, *Decision 02.*)

STATUTES ANNOTATED

Section 8.015. A written “Notice of Intent” to file a complaint shall be served upon the Secretary prior to the filing of any Complaint. The Member preferring the charges shall be the “Accuser,” and the Member charged shall be the “Accused.” The Notice of Intent will contain the name of the Accused and the Accuser, and a brief factual statement of the conduct upon which the alleged offense is predicated. The Accuser shall sign and verify the Notice of Intent under the Obligation of the Order. Upon receipt of the Notice of Intent, a mediation session shall commence as follows:

- (a) The Secretary shall promptly serve a copy of the Notice of Intent on the Accused and, within two (2) business days of receipt, notify the Mediator of the filing of the Notice of Intent. If the Mediator cannot be contacted within two (2) days, the Exalted Ruler shall appoint another Member to act as Mediator for the purpose of this hearing only.
- (b) The Mediator shall immediately contact the Accused and Accuser and arrange an informal mediation session within five (5) business days of the filing of the Notice of Intent.
- (c) The mediation session shall only be attended by the Mediator, the Accused, the Accuser, and, if desired, a Member designated by each as counsel. No person attending a mediation session shall disclose to anyone any matter discussed during the mediation. The Mediator shall, in his or her absolute discretion, have the right to allow any person to appear if the Mediator believes that person has meaningful information that will assist in resolving the case. The Mediator shall have the authority to limit or prohibit any questioning of that person by any party or counsel during the course of the mediation.
- (d) No record of the mediation session shall be made except as hereinafter provided. No reference to the proceedings, nor any statement or occurrence at said proceeding, shall be introduced for any purpose in any subsequent Local Forum proceeding against the Accused based upon the same or similar charges.
- (e) At the conclusion of the mediation, a simple written mediation statement shall be prepared by the Mediator and filed with the Secretary. The statement, which will be signed by the Mediator, the Accused and the Accuser, shall state either:
 1. that the Accused and Accuser have resolved their differences and provide a brief description of how the dispute was resolved, or
 2. that the Accused and Accuser were unable to resolve the dispute.

(See also Section 8.050)
- (f) The time for mediation may be continued, as necessary, by the Mediator but only with the consent of the Accused and Accuser.

STATUTES ANNOTATED

- (g) If the Mediator is unable to resolve the dispute, a written Complaint may be filed as provided in Section 8.030 within ten (10) business days of the filing of the statement required in subdivision (e) of this Section.
- (h) If the Accuser does not appear without good cause at the mediation session, then, in that event, the Complaint cannot be filed as provided in Section 8.030 and the Accuser cannot again file a Notice of Intent stating the same alleged offense. The Presiding Justice shall determine if the Accuser's failure to appear is excused for good cause.
- (i) Any other procedural issues concerning this Section may be raised by written application to the Presiding Justice.

(NOTE: See "Exhibit A" to Forum Rules for Form of Notice of Intent to File Complaint, and "Exhibit B" for Mediation Statement.)

• OPINIONS •

01 Mediation is not Stayed if Notice of Intent is filed by the Accused against the Accuser, Section 8.020 governs stay of proceedings on a Complaint.

02 There may only be one Accuser named on a Notice of Intent.

• DECISIONS •

01 Grand Lodge Statute 8.015 which requires a written "Notice of Intent," as a prerequisite to the filing of a complaint in the Local Forum is mandatory, and a failure to comply will require a remand, a compliance, and possibly a new trial. (*Grand Forum, Case No. 846,1993*)

02 Where the record reflects that a meaningful mediation process was conducted, this Forum will find that there has been substantial compliance with Section 8.015 of the Annotated Statutes, and although there has been a failure to comply fully with the technical provisions of said Statute, such failure does not constitute prejudicial and reversible error. (*Grand Forum, Case No. 889,1995*)

03 A complaint cannot be filed until the Accuser has made a good faith effort to complete a meaningful mediation. (*Grand Forum, Case No. 940, 1998*)

04 Members who enter mediations without intent to settle or without intent to search for solutions to wrongs by another Member are not respecting the intent of Section 8.015 of the Grand Lodge Statutes. (*Grand Forum, Case No. 961, 1999*)

05 The requirements of Sec. 8.015 of the Laws of the Order are mandatory and a failure to comply can result in a new trial. (*Grand Forum, Case No. 1009, 2001.*)

06 Absence from the scheduled mediation by either the Accused or the Accuser will be deemed lack of good faith and if the Accuser, it will prohibit the Member from signing a Complaint to continue the process. Absence of the Accused will be just the opposite and will permit the Complaint to be signed. (*Grand Forum, Case No. 1069, 2004*)

07 A finding of sufficiency by a Presiding Justice, in regard to the mediation requirements of GLS 8.015, will not be set aside on appeal where the record reflects the parties were present but unable to resolve the matter. (*Grand Forum, Case No. 1159, 2009*)

08 Where an agreement of settlement was reached at mediation, and evidence showed the Accused substantially performed the terms of settlement, a complaint filed by the Accuser was invalid. Once mediation of a notice of intent is successful and the Accuser receives the agreed remedy, the filing of a complaint covering the same issue is invalid. (*Grand Forum, Case No. 1198, 2011*)

09 There is no direct appeal to the Grand Forum from a mediation agreement or result. (*Grand Forum, Case No. 1290, 2013*)

10 Disclosure which does not go beyond the contents of the mediation statement is not prohibited by §8.015(c). (*Grand Forum, Case No. 1251, 2013*)

STATUTES ANNOTATED

Section 8.020. When a complaint is filed with the Secretary, he shall serve a copy thereof upon the Accused, and also notify the Exalted Ruler and the Presiding Justice. The Accuser may, at any time up to the start of a trial, withdraw the complaint by filing a written motion to withdraw complaint with the Secretary or Presiding Justice. Only a Member in good standing may file a complaint.

A check or money order in the amount of \$250.00 shall be paid by the Accuser to the Secretary at the time of the filing of the complaint as a deposit against the costs of the Lodge. A refund of the deposit will be promptly made by the Secretary upon receipt of a decision of the Local Forum in favor of the Accuser.

If an Accused files a complaint against his Accuser or any other Member of the Order before a decision or sentence has been imposed or during an appeal, proceedings on such complaint shall be stayed until a final decision has been entered in the original matter against the Accused.

After the final decision has been entered, proceedings under the subsequent complaint shall be handled as though the complaint was filed immediately after the final decision in the original complaint.

• OPINIONS •

01 The reading of a complaint by the Secretary at a regular meeting of the Lodge is a proper procedure.

02 Charges may be filed by an Accuser not personally involved or by a Member of another Lodge. Complaints must be filed with the

Secretary of the Accused's Lodge of membership.

03 A complaint may only be filed by one Accuser. The Presiding Justice may combine into one proceeding several complaints against one Accused.

• DECISIONS •

01 Failure of Secretary to serve a copy of the complaint upon the Accused, unless waived, is ground for reversal. (*Grand Forum, Case No. 282, 1925*)

02 It is error for the Lodge Secretary to refuse to accept payment of dues from the Accused while a complaint was pending, but prior to trial. Where the Accused is convicted and the case is reversed and remanded upon appeal, because the complaint was not properly verified, the Accused is restored to membership privileges, pending filing of a new complaint and proper disposition thereof. (*Grand Forum, Case No. 417, 1947*)

03 A Local Forum complaint filed by a Member who is the Accused in a prior pending complaint must be stayed until final decision in the prior complaint, even though the prior complaint is pending in a different Lodge. (*Grand Forum, Case No. 1200, 2010*)

04 Failure to pay the deposit against costs prescribed by Section 8.020 when timely filing a Local Forum Complaint does not by itself invalidate the Complaint. The Accuser must be given reasonable notice and opportunity to pay the deposit against costs before a timely-filed Complaint can be dismissed. (*Grand Forum, Case No. 1211, 2011*)

Section 8.030. Every action against a Member charging an offense against the Laws of the Order is instituted by filing three copies of a complaint thereof with the Secretary of the Lodge of which the Accused is a Member. The complaint shall be entitled “_____ Lodge No. _____ vs. _____.” The Member preferring the charges shall be the “Accuser” and the Member charged shall be the “Accused.”

STATUTES ANNOTATED

Every complaint must be in writing and may be upon information and belief. The facts and circumstances, with the date, place and particulars of occurrence of the alleged offense, must be specified in concise terms with reasonable certainty. The Accuser shall sign and verify the complaint under the Obligation of the Order.

(NOTE: For suggested form, see “Exhibit C” to Forum Rules.)

• OPINIONS •

01 There is no reason a Member cannot explain his actions in open Lodge prior to the possible filing of a complaint against him. The Lodge cannot prohibit or prevent the filing of a complaint against a Member.

02 The filing of a complaint and the action of a Local Forum need not be deferred in order to await the action of the State or Federal courts in a case based on the same facts.

03 If a complaint is filed within one year after the commission of an action upon which it is based, it may be held that the time when the alleged offense was committed is stated with sufficient certainty even though the year is omitted.

(See 8.090, Decisions.)

• DECISIONS •

01 The adoption by a Lodge of a report of a Committee appointed to investigate with a view to filing charges against a Member is no bar to prosecution. (*Grand Forum, Case No. 4, 1908*)

02 A complaint against a Member may be made and presented before his Lodge independent of and without reference to State Court proceedings. (*Grand Forum, Case No. 23, 1910*)

03 A Member filing charges is privileged to amend and perfect the same at any time before answer thereto is made. (*Grand Forum, Case No. 66, 1912*)

04 Objection to the form of allegations of a complaint must be made by a Motion to Dismiss or make more specific before answering. (*Grand Forum, Case No. 65, 1912*)

05 The omission of the word “willful” is not fatal to a complaint. It would be illogical to hold that one could institute proceedings in a court of law claiming damages from his Lodge for alleged injuries, without having proceeded willfully in the matter. (*Grand Forum, Case No. 204, 1920*)

06 The provision that charges must be in writing “under the Obligation of the Order” is mandatory and must be complied with. (*Grand Forum, Case No. 82, 1913 and Case No. 388, 1938*)

07 In a complaint, the facts and circumstances, with dates, places and particulars of occurrence of the alleged offense must be specified in concise form and with reasonable certainty. (*Grand Forum, Case No. 431, 1952*)

08 An allegation in a complaint which specifies the date of the offense but also alleges that “on frequent occasions prior thereto” the offense was committed, without specifying the dates of the previous frequent occasions, or referring thereto with reasonable certainty, is defective and may be attacked by Motion to Dismiss or make more specific. (*Grand Forum, Case No. 431, 1952*)

09 An allegation in a complaint which charges certain misconduct against the “persons of the wives of the Members of the Order” at social functions of the Lodge in a certain city, without specifying the person by name or with reasonable certainty, is defective and may be attacked by Motion to Dismiss or make more specific. (*Grand Forum, Case No. 431, 1952*)

10 Exalted Ruler of a Lodge is a Member of the Lodge against whom charges for violation of the Laws of the Order may be filed in the Local Forum. (*Grand Forum, Case No. 521, 1967*)

11 Failure to sign and verify a complaint under the Obligation of the Order is grounds for a Motion to Dismiss. (*Grand Forum, Case No. 223, 1921*)

12 Since improper conduct of a Member of a Local Lodge impacts the reputation thereof and the image of its Members in the community, any Member has standing to raise a complaint in the Local Forum alleging Conduct Unbecoming an Elk. (*Grand Forum, Case No. 1159, 2009*)

STATUTES ANNOTATED

Section 8.040. At the next regular meeting after the filing of a complaint a Local Forum shall be appointed in the following manner:

(a) Under the order of “New Business,” the Local Forum Box (*see Section 1.210*) shall be opened by the Exalted Ruler as custodian of the key, and the Lodge Secretary shall draw therefrom twenty-five slips of paper each listing the name of a Member in good standing or in the alternative, select the first twenty-five names from the Drawing Roster obtained from CLMS. The Secretary shall record the names so drawn or selected in the minutes of the meeting, numbering them consecutively.

Officers of the Lodge and members of the managing body of the club, and other Members unable to serve for good reason shall be excused from service on the Local Forum, in which case the Secretary shall draw additional names from the Forum Box or select additional names from the Drawing Roster until sufficient names are drawn or selected and numbered as specified above.

(b) The Secretary shall send a list of names drawn to the Accused and the Accuser within three days after the names are drawn.

(c) The Accused and the Accuser each has the right to strike six names from the list by written notice to the Secretary to be received by the Secretary within seven days after the date when the names were mailed. Failure to strike shall be considered as a waiver.

(d) Under the order of “New Business” at the next regular meeting after seven days have expired, the Exalted Ruler shall appoint four of the unchallenged names as members of the Local Forum. The Secretary shall immediately notify the Members of their appointment.

(e) Members appointed to the Local Forum shall serve unless excused for cause by the Presiding Justice.

(f) Any vacancy occurring in a Local Forum shall be filled by the Exalted Ruler from the remaining unchallenged names on the list in the order in which they were drawn.

(g) If, after all challenges filed and excuses allowed, an insufficient number of names remain from which to appoint the Local Forum, ten additional names shall be drawn or selected from the same Drawing Roster in the order in which they are listed. The Accused and Accuser may at that meeting each challenge three of the ten members. Unchallenged members shall then be subject to appointment in the order in which their names were drawn.

STATUTES ANNOTATED

- (h) No challenge shall be allowed by reason of any informality in procedure in preparing the Local Forum Box or in drawing the names therefrom.
- (i) After the appointment of the Local Forum, all names drawn from the Local Forum Box shall be returned to it.

• OPINIONS •

01 Unless there is a strong indication that the Exalted Ruler will be called as a material witness, he may proceed with the formation of the Local Forum. If the Exalted Ruler deems it appropriate he may designate the Officer next in rank, who is not a material witness, to exercise the powers and perform the duties of the Exalted Ruler relative to the appointment of the Local Forum.

02 The legality of the appointment of the Local Forum cannot be attacked collaterally. Substantial compliance with the Laws of the Order is required, but objections must be timely. Mere delay in the appointment of the Forum does not make the appointment void.

03 The Exalted Ruler should instruct the Presiding Justice to proceed with the trial (*Section 8.050*) if the Local Forum has failed to act. If the Local Forum continues its nonperformance, the Exalted Ruler should obtain an Executive Order from the Grand Exalted Ruler to compel obedience to the Laws of the Order. Charges of violation of obligation should be preferred against any member of the Local Forum who refuses to perform his duty.

04 Unless there is strict compliance with this Section in the formation of the Local Forum the selected panel may be challenged and the actions thereof voided. If this is found to be the case justice requires that a new Local Forum be selected.

05 In appointing the four jurors for a Local Forum proceeding, an Exalted Ruler may also appoint one or more designated alternate jurors to serve in the event any of the original jurors is unavailable at the time of the Local Forum trial.

• DECISIONS •

01 Where the minutes of a Lodge meeting fail to indicate that procedures for the appointment of a Local Forum have been followed or where a notice of a preliminary hearing has not been served upon the parties, the Grand Forum may reverse any action taken by a Presiding Justice of the Local Forum and remand the matter for a new trial. (*Grand Forum, Case No. 685, 1985*)

02 Witnessing an incident which is the basis for charges does not disqualify an Exalted Ruler from appointing a Local Forum. (*Grand Forum, Case No. 89, 1913*)

03 Objections to the appointment of the Local Forum must be made prior to the commencement of the trial and the taking of any testimony or the same will be considered waived. (*Grand Forum, Case No. 774, 1989*)

04 There must be a strict compliance with the provisions of Sec. 8.040 relating to the selection of a Local Forum. Failure to comply requires that any actions of such improperly selected panel be rendered void. (*Grand Forum, Case No. 1009, 2001*)

05 The Exalted Ruler must appoint the members of the Local Forum from the unchallenged names in the order in which they were drawn. Any vacancy in the Local Forum must be filled in the same manner. (*Grand Forum, Case No. 1170, 2009*)

STATUTES ANNOTATED

Section 8.050. The Presiding Justice may enter a final decision upon the stipulation of the Accused and the Accuser whether from Mediation under Section 8.015 or after the filing of a Complaint under Section 8.020, which final decision shall have the same force and effect as a decision entered pursuant to Section 8.140. Such a final decision may not be appealed by either the Accused or the Accuser but this section shall not limit the authority of the Grand Exalted Ruler to appeal the decision pursuant to the Laws of the Order.

The Presiding Justice shall conduct a preliminary hearing at which he will receive the plea of the Accused. The place and time of the preliminary hearing shall be set by the Presiding Justice not less than five, nor more than ten days after the appointment of the Local Forum. The members of the Local Forum, other than the Presiding Justice, need not be present at the preliminary hearing. The Secretary, or in his absence or inability to serve, a designated Officer shall give written notice to the Accused and the Accuser of the time and place of the preliminary hearing.

The time for the Accused to file his plea and the proceedings before the Presiding Justice of the Local Forum may be continued from time to time by the Presiding Justice. A continuance shall be granted only when it appears necessary for the proper presentation of the case.

• DECISIONS •

01 The failure of a Lodge Secretary to give written notice to the Accuser of the date, time and place of a Preliminary Hearing pursuant to Section 8.050 of the Laws of the Order constitutes error and renders all subsequent proceedings a nullity. (*Grand Forum, Case No. 996, 2001*)

02 Notice of time and place of the taking of the plea and of trial is mandatory, and failure to give notice requires a reversal of a finding of guilt where the Accused was neither present nor represented at the trial. (*Grand Forum, Case No. 330, 1929 and Case No. 348, 1931*)

03 The Presiding Justice of a Local Forum has the right to continue, for good reason, a proceeding before the Local Forum. (*Grand Forum, Case No. 490, 1963*)

04 The notice to be served by the Lodge Secretary upon an Accused, requiring him to appear and plead to a complaint must so state. A notice requiring an Accused to “meet with the panel and the Justice of the Local Forum” fails to comply with the Statute. (*Grand Forum, Case No. 525, 1967*)

05 The Accused is entitled to be served with a notice specifically advising him of the date, place and hour of the trial of the case. A notice directing the Accused to appear and

“hear charges filed against you,” fails to comply with the Statute. (*Grand Forum, Case No. 525, 1967*)

06 Action of a Presiding Justice of a Local Forum on the evening of March 2, a Thursday, setting a trial date for Monday evening, March 6, while perhaps legal, is frowned upon when two of the intervening days constitute a weekend and tend to deprive an Accused of reasonable time within which to prepare his defense. (*Grand Forum, Case No. 525, 1967*)

07 The requirement as provided in Section 8.050 of the Annotated Statutes that the Accuser be notified in writing as to the time and place of the holding of the Preliminary Hearing is a mandatory requirement, and failure on behalf of the Presiding Justice to require compliance with this requirement, constitutes error. (*Grand Forum, Case No. 944-C, 1998*)

08 Section 8.050 of the Laws of the Order, providing that the Local Forum shall meet to hear the plea of the Accused at a place and time not less than five nor more than ten days after its appointment, to be fixed by the Presiding Justice, does not make void a meeting held for that purpose after the expiration of ten days. (*Grand Forum, Case No. 175, 1918*)

Section 8.060. At the preliminary hearing the Accused may file a plea of guilty or not guilty, a motion to dismiss or a motion to make more specific. A motion to dismiss may be filed when the allegations contained in the complaint would not, if proven, constitute an offense. A motion to dismiss on that ground may also be filed at any time after the filing of the complaint, and may be acted upon by the Presiding Justice without awaiting completion of any other procedures in the case. The motion to make more specific may be filed when the allegations contained in the complaint are stated uncertainly, and the Accused is not sufficiently informed to enable him to properly defend himself.

• OPINIONS •

01 Statements regarding available testimony should not be presented to the Presiding Justice at a hearing on a motion to dismiss.

02 Failure to allege an intent to insult the Flag by throwing it to the ground would sustain a motion to dismiss.

03 Failure of the Lodge to meet time dead-

lines set forth in this chapter shall not be grounds for dismissal of a Notice of Intent to File a Complaint or a Complaint unless substantial prejudice is shown.

04 If the Accused fails to enter a plea, the Presiding Justice shall enter a plea of not guilty on his behalf.

• DECISIONS •

01 Objection to the form of allegations of a complaint must be made by a Motion to Dismiss or make more specific before answering. (*Grand Forum, Case No. 65, 1912*)

02 When a Motion to Dismiss or make more specific is sustained on the ground of the complaint not being verified, it will ordinarily be for the best interests of the Order to give the Accuser reasonable opportunity to correct a defect of verification by amendment of his complaint. (*Grand Forum, Case No. 183, 1918*)

03 Failure to specify facts and circumstances, with date, place and particulars of occurrence for the alleged offense, in concise form and with reasonable certainty, is ground for a Motion to Dismiss or make more specific. (*Grand Forum, Case No. 223, 1921*)

04 Failure to sign and verify a complaint under the Obligation of the Order is ground for Motion to Dismiss or make more specific. (*Grand Forum, Case No. 223, 1921*)

05 The overruling of a Motion to Dismiss or make more specific and rendering judgment forthwith by a Local Forum without giving the Accused an opportunity to plead further cannot be upheld. The provisions of Sections 8.070, 8.080 and 8.160 of the Laws of the Order must be complied with. (*Grand Forum, Case No. 244, 1922*)

06 A Motion to Dismiss or make more specific for insufficiency to a charge and specifications can be sustained only when it appears that, after admitting all of the facts alleged (or that can be reasonably and fairly implied from them), the complaint fails to state a cause of action.

(*Grand Forum, Case No. 305, 1926 and Case No. 772, 1989*)

07 It is the well established rule of our Order that under the provisions of Section 8.030, the complaint must be in writing and verified are mandatory. However, upon a reversal of the judgment of guilty, because the complaint was not verified, the Accuser may file an amended complaint or he may file a new complaint in an independent proceeding. (*Grand Forum, Case No. 417, 1947*)

08 Motion to Dismiss or make more specific to petition will be sustained when:

- a. Petition fails to set forth the facts, circumstances, dates, places and particulars of alleged offense.
- b. Petition merely alleges that defendant violated unspecified Laws of the Order or unspecified civil laws.
- c. Offenses alleged to have been committed by defendant occurred more than four (4) years prior to the commencement of action. (*Grand Forum, Case No. 532, 1969*)

09 Where a Motion to Dismiss or make more specific by the defendant is overruled by the Presiding Justice and the defendant, without objections, participates in the trial, if upon appeal it is found that evidence sustains the charge against the defendant, it is then too late to raise the sufficiency of the complaint. (*Grand Forum, Case No. 301, 1926*)

10 The absence of the Accuser at a preliminary hearing is not grounds for a dismissal of the complaint. (*Grand Forum, Case No. 748, 1988*)

STATUTES ANNOTATED

11 The decision of a Local Forum finding violations under GLS 9.070 will not be set aside on the basis that the Complaint was verified by one without personal knowledge of its contents. Reasonable certainty, which may be based upon information and belief, is sufficient to meet the verification requirement. (*Grand Forum, Case No. 1159, 2009*)

12 A motion to dismiss the complaint may not be granted by the Presiding Justice without first giving the Accuser notice and opportunity to contest the motion. (*Grand Forum, Case No.1239, 2912*)

Section 8.070. The Presiding Justice shall rule on motions as follows:

(a) If the motion to dismiss is sustained, the case is dismissed with prejudice.

(b) If the motion to make more specific is sustained, the Accuser shall have seven days to file an amended complaint or the case is dismissed with prejudice.

If in the opinion of the Presiding Justice the amended complaint does not cure the insufficiency or uncertainty, he shall dismiss the complaint with prejudice.

If the amended complaint is not dismissed, the Presiding Justice shall receive the plea of the Accused within ten days at a date, place and time designated by him in writing and served upon the Accused and the Accuser at least five days prior thereto.

If the motions are overruled, the Accused shall have seven days thereafter in which to file his answer.

(c) If the motions provided for in Section 8.060 are sustained, which result in the dismissal of the complaint, the Accuser has the right of appeal as set forth in Section 8.230.

An order of the Presiding Justice dismissing a complaint shall be reported at the next regular meeting of the Lodge and recorded in the minutes of that meeting.

• **OPINION** •

01 The Lodge cannot overrule the decisions of the Presiding Justice on a Motion to Dismiss. A proper appeal under Chapter 8 is necessary.

• **DECISIONS** •

01 The overruling of a Motion to Dismiss or make more specific and rendering judgment forthwith by a Local Forum without giving the Accused an opportunity to plead further cannot be upheld. The provisions of Section 8.070 of the Laws of the Order must be complied with. (*Grand Forum, Case No. 244, 1922*)

02 Allegations in complaint not being sufficient to connect Accused with purported fraud, Motion to Dismiss or make more specific was properly sustained. (*Grand Forum, Case No. 266, 1924*)

03 Failure to file a Motion to Dismiss or make more specific waives any objection on appeal that the charges were not specific enough. (*Grand Forum, Case No. 294, 1925*)

04 A statement by the Accused (defendant) in open meeting that, if the Accuser's life had been an open book upon the night the Accuser stood before the altar, the Accuser would be ineligible to become a Member of the Order of Elks, is not Conduct Unbecoming An Elk as defined in Section 9.070 of the Statutes of the Order, and the Motion to Dismiss or make more specific to

a complaint charging that offense was properly sustained by the Local Forum. (*Grand Forum, 1925*) But a statement by the Accused in open meeting that, if the Accuser's life had been an open book upon the night the Accuser stood before the altar, the Accuser would be ineligible to become a Member of the Order of Elks, was a violation of the obligation of the Accused as defined in Section 9.070 of the Statutes of the Order and the Motion to Dismiss or make more specific to a complaint charging that offense was improperly sustained by the Local Forum. (*Grand Forum, Case No. 292, 1925*)

05 The power to dismiss a complaint is vested in the Local Forum and is, so far as the Local Lodge is concerned, vested only in the Local Forum. (*Grand Forum, Case No. 298, 1926*)

06 Failure to allege that charges are filed under the Obligation of the Order may be cured by amendment. (*Grand Forum, Case No. 323, 1928*)

07 The filing of a false answer by a Member accused of an offense against the Order is a violation of obligation. (*Grand Forum, Case No. 357, 1932*)

08 The hearing on a Motion to Dismiss or make more specific is the province solely of the Presiding Justice, and the entire Local Forum need not participate, and hearing on the Motion to Dismiss or make more specific is not required to be before an open meeting of the Local Lodge. (*Grand Forum, Case No. 408, 1944*)

09 A Motion to Dismiss or to make more specific should not be considered and sustained when the allegations in one specification contained in the complaint constitute an offense, and are so certainly and sufficiently stated as to enable the Accused to defend himself against the charge. (*Grand Forum, Case No. 513, 1965*)

10 The Grand Forum is fully warranted in reversing a conviction by the Local Forum and in dismissing the complaint when it appears that substantial justice has not been done and where no useful purpose will be served in subjecting the Accused to a second trial. (*Grand Forum, Case No. 528, 1968*)

11 After entry of Order sustaining Motion to Dismiss or Make More Specific to Petition, appeal will be dismissed unless Petition is amended within time allowed. (*Grand Forum, Case No. 532, 1969*)

12 There is no provision in our laws for a self-styled amended complaint to be labeled a "New Complaint" for purposes of avoiding or evading the time limitations or filing requirements of our laws. (*Grand Forum, Case No. 644, 1982*)

13 The Presiding Justice of a Local Forum, in sustaining a Motion to Dismiss or make more specific to a complaint on the ground of uncertainty, shall give the Accuser the right to file an amended complaint within the time provided by Section 8.070. (*Grand Forum, Case No. 470, 1958*)

14 It is error for a Presiding Justice of the Local Forum to request or entertain testimony from an Accused for the purpose of determining if acts alleged in the complaint were willful and/or malicious. Such evidence must be reserved for the trial before the Local Forum. (*Grand Forum, Case No. 767, 1989*)

15 There is no authority to amend a complaint at time of trial which has the effect of charging new offenses or to cure a defective complaint. (*Grand Forum, Case No. 775, 1989*)

16 When the Presiding Justice in ruling upon a Motion to Dismiss a Complaint, determines that, assuming all of the allegations contained in the Complaint are taken as true, the same would not if proven, constitute an offense under the Laws of the Order, and that such insufficiency cannot be cured by amendment, then the Presiding Justice may and shall grant the Motion to Dismiss the Complaint with Prejudice. (*Grand Forum, Case No. 944-D, 1998*)

17 In ruling upon a Motion to Dismiss a Complaint, a Presiding Justice must base his decision solely upon a review of the allegations contained in the Complaint proper, and it is error to consider any matters of an extraneous evidentiary nature. (*Grand Forum, Case No. 944-E, 1998*)

18 Failure of the Accuser to file amended complaints on or before seven (7) days after the Presiding Justice's ruling on the Motion to Make More Specific, requires the Presiding Justice to dismiss the original complaint and the amended complaints with prejudice in accordance with Section 8.070(b) of the Annotated Statutes. (*Grand Forum, Case No. 1029, 2003*)

19 In ruling on a motion to dismiss a complaint before the Local Forum, the Presiding Justice must base his decision solely upon a review of the allegations contained in the complaint proper and it is error to consider any matters of an extraneous evidentiary nature. (*Grand Forum, Case No. 1109, 2006*)

STATUTES ANNOTATED

Section 8.075. Either party to a Local Forum case may file a written motion for summary decision in their favor at any time after the filing of a Complaint. The opposing party shall have ten (10) days to file an opposition to the motion. The motion shall be heard and decided by the Presiding Justice. The motion may be acted on independently of any other procedures in the case.

Summary decision is appropriate if the pleadings, affidavits, material obtained by discovery or otherwise, or matters officially noticed show that there is no genuine issue as to any material fact.

Summary decision cannot be granted if the pleadings and documents submitted by the parties demonstrate a genuine issue as to any material fact.

The party moving for summary decision has the burden of showing that there is no genuine issue of material fact based on admissible evidence presented with the motion and the moving party is entitled to judgment as a matter of law. The non-moving party may not respond with allegations, speculations, or denials but must provide admissible evidence that raises a genuine issue of material fact.

Either party may submit in support of, or in opposition to, a motion for summary decision authenticated documents and sworn affidavits made on personal knowledge setting forth any facts which are admissible in evidence.

A summary decision shall be issued in writing and shall have the same force and effect as a decision entered pursuant to Section 8.140, and may be appealed by the non-prevailing party. Denial of summary decision simply indicates that an evidentiary hearing is required to resolve a factual question.

• OPINION •

01 Where the guilt of the Accused has been determined by the Presiding Justice under summary proceedings, unless a mandatory sentence is prescribed by statute without discretion, a sentencing hearing shall be held by the Local Forum to determine the sentence to be imposed.

• DECISIONS •

01 Under GLS 8.075, summary decision is appropriate where the Presiding Justice finds no genuine issue of a material fact based on the accuser's misuse of the legal system to cause dissension and discontent among the Lodge members. (*Grand Forum, Case No. 1474, 2016*)

02 Order granting summary decision cannot stand because there are genuine issues of material fact and the pleadings must be considered in the light most favorable to the non-moving party. (*Grand Forum, Case Nos. 1371 and 1372, 2016*)

03 In considering a motion for summary decision, the rights of the parties—a full, fair, and impartial hearing, sworn testimony under oath, and confrontation of the accuser—are unavailable; therefore, the procedure of pleading on a motion must be narrowly applied and the intent of the parties should be determined only through an evidentiary hearing. (*Grand Forum, Case Nos. 1333 and 1334, 2016*)

STATUTES ANNOTATED

Section 8.080. Upon a plea of not guilty, the Presiding Justice shall, not less than ten days thereafter, set a date and time for trial of the case to commence, said date to be within 30 days of entry of said plea. The Presiding Justice shall give written notice to the parties not later than five days after setting a trial date and not less than ten days before the trial date. The Presiding Justice shall have the authority to extend the commencement date of the trial for good cause. Upon a plea of guilty, the Presiding Justice, not less than five days thereafter, shall set a date and time when testimony will be taken to determine the penalty. The Presiding Justice shall give written notice to the parties not later than five days after setting a hearing and at least ten days before the hearing.

• OPINION •

01 Failure of the Accused, after due notice, to appear at the trial does not prohibit the holding of the trial. The charges must be supported by evidence sufficient to convict. Absence of the Accused must not prejudice the decision.

(See 8.090, *Opinion 03 and Decision 02, and 8.130, Decisions 02 and 03.*)

• DECISIONS •

01 The Presiding Justice of a Local Forum has the right to continue, for good reason, a proceeding before such Local Forum. (*Grand Forum, Case No. 490, 1963*)

02 An Accused is entitled to be present at all stages of a hearing or trial. His failure to exercise that privilege does not require a delay of the trial, but to proceed without him must not prejudice the decision or deny him a fair trial. (*Grand Forum, Case No. 751, 1988*)

Section 8.090. The Esteemed Loyal Knight shall conduct the prosecution of the case. He may be assisted by others who are Members of the Order. The Esteemed Loyal Knight may be assisted by counsel, who must be a Member of the Order unless otherwise ordered by the Presiding Justice. Should the Esteemed Loyal Knight be disqualified, the Exalted Ruler shall appoint a Member to prosecute the charge. The Accused shall be entitled to be personally present at all proceedings until the case is submitted for decision. He may be represented by counsel, who must be a Member of the Order unless otherwise ordered by the Presiding Justice. The Presiding Justice shall appoint a stenographer to take testimony produced at trial or shall cause a recording device to be used. If the decision of the Local Forum is appealed to the Grand Forum, the testimony introduced at the trial shall be transcribed and together with all exhibits offered in evidence shall be sent to the Grand Secretary as part of the record of the proceedings.

The Presiding Justice shall have the power to issue subpoenas and other process to compel attendance of witnesses and the production of evidence. Either party shall be entitled to subpoenas to compel attendance at the trial of any witnesses residing within a 50-mile radius of the Lodge or within its' jurisdiction, whichever is greater. Subpoenas must be issued by the Presiding Justice and shall be personally served upon a witness. Any Member not a party to the case may serve a subpoena. Willful disobedience by a Member of any order or process issued by the Presiding Justice or Local Forum shall constitute a contempt of the Local Forum punishable, at the discretion of the Local Forum, by a suspension for not more than three months.

STATUTES ANNOTATED

• OPINIONS •

01 The Esteemed Loyal Knight is charged with the duties of (1) prosecuting alleged offenders and (2) if necessary, instituting complaints in proper cases. Neither duty disqualifies him from performing the other. An Accuser has no right to have his personal attorney participate in the prosecution.

02 The Lodge is not obligated under the Laws of the Order nor does it have the authority to pay the expense of counsel for an Accused.

03 The Accused is entitled to be present at all stages of the hearings. His failure to exercise this privilege does not require a delay of the trial and the Lodge has no burden to compel him to be present.

04 The power of the Presiding Justice to issue subpoenas and other process to compel attendance of witnesses and the production of evidence shall apply only to Members of the Order.

• DECISIONS •

01 A transcript of evidence given by another in a State Court is hearsay evidence and cannot be used as testimony against the Accused. (*Grand Forum, Case No. 186, 1919*)

02 The absence of the Accused from the trial before the Local Forum does not necessarily invalidate the proceeding. (*Grand Forum, Case No. 205, 1920*)

03 The Grand Forum concludes that any assignment of error not contained in Appellant's opening brief has been abandoned. However, the Grand Forum notes for the record that any objection to the composition of a Local Forum must be raised before the commencement of the trial and the taking of any testimony. Further, any complaint based upon the failure of a Local Forum to subpoena witnesses must be made before the conclusion

of the trial and the submission of the case for decision. (*Grand Forum, Case No. 560, 1974*)

04 A tape of the testimony produced at trial does not comply with the transcription requirements of Sec. 8.090. (*Grand Forum, Case No. 1026, 2002.*)

05 A Presiding Justice shall not permit a Counsel for a party pursuant to GLS 8.090, who is an unaffiliated Elk as defined by GLS 14.190 to participate in a Local Forum. (*Grand Forum, Case No. 1060, 2004*)

06 In a Local Forum proceeding, due process requires that a party be allowed access to Lodge records relevant and material to the allegations of the complaint. (*Grand Forum, Case No. 1159, 2009*)

Section 8.100. Unless otherwise directed by the Presiding Justice the trial shall proceed in the following manner:

- (a) The Esteemed Loyal Knight, or his counsel shall offer the evidence in support of the charges.
- (b) The Accused or his counsel may present the defense, examine and cross examine witnesses and offer evidence in support of the defense.
- (c) The parties may then offer rebutting testimony only, unless the Presiding Justice, for good reason in the furtherance of justice, permits them to offer additional direct evidence.
- (d) At the conclusion of the testimony the Esteemed Loyal Knight or other counsel for the Accuser and the defense counsel may make final arguments or may elect to submit the case without argument. The Esteemed Loyal Knight or other counsel for the Accuser, shall have the right to open and close.

• OPINIONS •

01 The Accuser is not required to appear at the trial unless subpoenaed, but may attend if he so desires.

02 Upon the death of the Accused during an active Local Forum proceeding, the Presiding Justice shall dismiss the complaint.

• DECISIONS •

01 Where the record states that testimony was taken the presumption is that it was legally taken and, upon appeal, the Grand Forum will not go outside the record to determine the facts. (*Grand Forum, Case No. 23, 1910*)

02 There is no error in the admission of a letter from the Grand Exalted Ruler. Such a letter is not hearsay evidence. (*Grand Forum, Case No. 198, 1919*)

03 Failure to verify a complaint is an irregularity that may be cured during the progress of trial and before submission of the case to the Local Forum. (*Grand Forum, Case No. 323, 1928*)

04 Where one continuance is granted the Accused, it is not an abuse of discretion to refuse a further continuance. (*Grand Forum, Case No. 394, 1939*)

05 Member was convicted by House Rule for Conduct Unbecoming An Elk and suspended from Club privileges. He requested the Lodge to set aside the House Committee action, which was done, and charges were then filed before the Local Forum. Member then pleaded double jeopardy and res adjudicata, which pleas were overruled, and he was found guilty. Upon appeal, Local Forum was sustained by Grand Forum which held that House Committee action was administrative and action of Local Forum was judicial. There must be a prior conviction or acquittal by a court of competent jurisdiction before such plea is effective. (*Grand Forum, Case No. 428, 1951*)

06 An Accuser should not participate in any way in the proceedings before the Local Forum except as a witness. (*Grand Forum, Case No. 480, 1961*)

07 There is a manifest denial of substantial justice to the Accused: Where two separate cases are joined for trial when there was no claim of conspiracy or joint action; Where a "Notice of Hearing" was indefinite as to scope

and purpose and was not received by Accused until three and one-half days before the "Hearing"; Where the Lodge failed to provide the Grand Forum with a proper record on Appeal; Where the Lodge failed to restore rights of membership to Accused during Appeal after a proper stay of sentence had been ordered by the Grand Forum; Where the Presiding Justice of the Local Forum arbitrarily refused to allow Accused twenty minutes recess to contact and present material witnesses in his behalf; and Where the proceedings resulting in the conviction of Accused were conducted in an atmosphere of hostility toward defendant and with lack of decorum which the gravity of the situation required. (*Grand Forum, Case No. 528, 1968*)

08 A conviction cannot be sustained where the only evidence to support it is hearsay. It is contrary to the policy of the Order to entertain charges between Members arising out of matters with regard to which no nexus to the Order has been affirmatively established. (*Grand Forum, Case No. 691, 1985*)

09 It has long been established that it is contrary to the policy of the Order to entertain charges between Members arising out of commercial contracts or other transactions unless some nexus to the Order is affirmatively established. (*Grand Forum, Case No. 596, 1978 and Case No. 691, 1985*)

10 Elks in good standing should not be refused admittance to Local Forum proceedings, except that the Presiding Justice may exclude Elks who are witnesses. (*Grand Forum, Case No. 745, 1988*)

11 In criminal cases a person may not be made to testify against himself. An Executive Order removing an Officer is more in the nature of a civil case, and the Officer removed could properly be called as a witness by the attorney for the Respondent-Grand Exalted Ruler. (*Grand Forum, Case No. 901, 1996*)

STATUTES ANNOTATED

Section 8.110. Witnesses who are Members of the Order shall testify under the Obligation of the Order. Witnesses who are not Members, if willing, shall be sworn. If such witness declines to be sworn, a record of such fact shall be made in the minutes of the trial, and the testimony of such witness shall be heard.

(NOTE: See “Exhibit F-1” to Forum Rules for Form of Oaths for Elk and non-Elk witnesses.)

• OPINIONS •

01 The non-Member spouse of an Accused may testify.

02 A transcript of evidence given by another in a State or Federal Court is hearsay evidence and cannot be used as testimony against the Accused.

• DECISIONS •

01 The Grand Forum has no alternative but to reverse a conviction of the Local Forum and to order a new trial when it is clearly established that the witnesses testifying before the Local Forum did not testify under oath, and when it is further discovered that the Local Forum made no transcript or other record of the trial proceedings. (*Grand Forum, Case No. 543, 1971*)

02 Witnesses who are Members of the Order shall take an oath to testify under the Obligation of the Order; Failure of the Presiding Justice to cause an oath to be administered is reason for reversal. (*Grand Forum, Case No. 781, 1990*)

Section 8.120. If there is a material witness residing outside the jurisdiction of the Lodge and the Presiding Justice determines that such testimony is not cumulative and if not presented, would prevent the Local Forum from having all pertinent facts, the following procedures shall be followed:

- (a) Upon such ruling the parties to the case may agree upon the testimony of the witness and reduce it to writing.
- (b) The statement shall be filed with the Secretary and become part of the record in the case.
- (c) If there is no agreement regarding the testimony of the material witness, the Presiding Justice shall order that the deposition of the witness be taken before a Member of the Order. The order shall specify the name and address of the witness, the name and address of the Member before whom the deposition will be taken and the time and place where it will be taken.
- (d) The party requesting the deposition shall, within two days of the order, file interrogatories with the Secretary and furnish a copy to the opposing counsel.
- (e) Within two days after receipt of the interrogatories, opposing counsel shall file cross interrogatories with the Secretary and furnish a copy to the opposing counsel.
- (f) The two sets of interrogatories and the order of the Presiding Justice shall be sent by mail to the Member of the Order before whom the deposition is to be taken.

STATUTES ANNOTATED

- (g) The parties or their counsel may attend the taking of the deposition but may not participate in the proceedings.
- (h) When the interrogatories have been answered and a record thereof made, the deposition shall be read by the witness and if correct signed by him. If the witness is a Member of the Order, the deposition shall be certified as to its truthfulness under the Obligation of the Order.
- (i) The Member of the Order before whom the deposition was taken shall certify to the correctness of the answers recorded in the deposition.
- (j) The deposition, interrogatories and order of the Presiding Justice shall be returned promptly to the Secretary of the issuing Lodge.
- (k) At the trial either party in the case may introduce the deposition in evidence.

• DECISION •

01 An affidavit was offered and received in evidence over objection of the Accused and no statutory reason was shown for not producing such affiant as a witness or at least procuring her deposition, thus affording an opportunity to cross-examine such witness.

The admission of this affidavit under the circumstances was highly prejudicial to the Accused and error on the part of the Local Forum. The Accused is entitled to a new trial before a Local Forum of the Lodge. (*Grand Forum, Case No. 249, 1922*)

Section 8.130. All members of the Local Forum must be present during the trial. The Local Forum shall be the sole judge of the facts proven. The Presiding Justice shall rule upon the competency, materiality or relevancy of evidence offered. Technical objections to the form of questions shall not be entertained. An admission or confession of the Accused in courts of the land, or elsewhere, may be received, if in writing.

• OPINION •

01 The Presiding Justice must judge the admissibility of evidence by ordinary legal standards which are not arbitrary or unreasonable. Prior convictions of the Accused are

inadmissible except to show course of conduct or to test the veracity of the Accused. (*See 7.100 and 8.010.*)

• DECISIONS •

01 It is not necessary to prove willful intent in a prosecution for using membership in the Order for commercial purposes. (*Grand Forum, Case No. 198, 1919*)

mere opinions and speculations of the witnesses. The evidence must be competent as judged by ordinary legal standards. (*Grand Forum, Case No. 260, 1923*)

02 Notwithstanding the discretion given to a Local Forum with reference to the question of evidence which may be received in any case before it (*Section 8.130*), the conviction of an Accused will not be sustained when based on

03 Evidence received by the Local Forum should be material and relevant to the specific charge or charges contained in the Complaint. (*Grand Forum, Case No. 562, 1974*) (*See 8.140, Decision 08.*)

STATUTES ANNOTATED

04 When the Forums of the Order ascertain that there may be a conflict between the civil or criminal laws and the Constitution or Statutes of the Order, the Laws of the Order will control. (*Grand Forum, Case No. 749, 1988*)

05 When a Local Forum trial has been established and the members of the Local Forum do not attend the trial proceedings, the proper procedure to be followed by the Presiding Justice is to continue the matter to a subsequent date so as to ensure the attendance of all members of the Local Forum and it is improper to dismiss the complaint filed against the Accused because

of the failure of Local Forum members to attend the trial. (*Grand Forum, Case No. 883, 1995*)

06 SFR 4.6.3 requires that all Local Forum members shall be sworn prior to the commencement of the Local Forum trial. The trial record must affirmatively show compliance with this rule. (*Grand Forum, Case No. 1115, 2006*)

07 Section 8.130 requires that all members of the Local Forum must be present during the trial. The requirement that all members of the Local Forum be present cannot be waived. (*Grand Forum, Case No. 1115, 2006*)

Section 8.140. Upon conclusion of the testimony, the Local Forum without adjournment shall go into executive session and decide the guilt or innocence of the Accused by secret ballot. The votes of three members of the Local Forum shall be required to decide the case and determine the sentence. If the Accused is found guilty the sentence shall be imposed by the Local Forum. The decision shall be signed by the Presiding Justice, reported to and entered in the minutes of the Lodge by the Secretary at the first regular Lodge meeting after the conclusion of the trial. The report of the decision and sentence fixed by the Local Forum shall constitute the pronouncement of sentence. All reasonable costs and expenses incurred by the Lodge in connection with the Local Forum shall be assessed to the non-prevailing party, at the discretion of the Presiding Justice.

• OPINIONS •

01 The decision of the Local Forum is made in executive session and the presence of persons who are not members of the Forum during the executive session is grounds for reversal.

02 Once a decision is rendered by the Local Forum the Presiding Justice is without authority to consider a motion for a retrial.

03 After the announcement of a decision by the Local Forum at a regular Lodge meeting, its decision cannot be overturned by the Local Forum, the Exalted Ruler or the Lodge and no member of the Local Forum may change his vote. The report to the Lodge becomes the effective date of the sentence.

04 A Lodge cannot impose a fine to augment a sentence imposed by the Local Forum. Only sentences prescribed by the

Laws of the Order may be imposed and may not be ordered to run consecutively.

05 While the publication of the decision of the Local Forum in the Lodge bulletin is not prohibited, it is generally good practice not to publish the judgment through this medium as non-Members may read Lodge bulletins.

06 It is not necessary to prove willful intent in a prosecution for violation of the Laws of the Order. It is sufficient to prove the act was committed in violation of our Laws.

07 A Member expelled should be advised of his right to apply for a pardon under the provisions of Chapter 10. A pardon by State or Federal authority does not affect the duty of the Secretary under Section 8.190. (*See Section 8.200, Opinion 01.*)

• DECISIONS •

01 The Local Forum, in its verdict and sentence, did not follow the complaint but found the Accused guilty of an offense with which he was not charged. The verdict therefore is clearly illegal and void. (*Grand Forum, Case No. 281, 1924 and Case No. 775, 1989*)

02 Failure of the Secretary to promptly enter in the minutes of the Lodge the judgment and sentence of the Local Forum is not reversible error where it does not affect some substantial right of the defendant. (*Grand Forum, Case No. 283, 1925*)

03 Evidence sustaining the fact that the Accused issued a bank check without sufficient funds to meet the same upon presentation is sufficient to sustain the charge against him of Violation of His Obligation as an Elk and the judgment of the Local Forum, after a trial duly and regularly had, of expulsion from the Order is proper. (*Grand Forum, Case No. 307, 1926*)

04 Where a Member is found guilty and sentenced to six months suspension, the Local Forum has no power to suspend such sentence "due to good behavior of the Accused." (*Grand Forum, Case No. 404, 1943*)

05 Where a single charge is filed against a Member in the Local Forum he can be found guilty or innocent of one charge only and punished accordingly. The specification of certain acts within the charge do not constitute separate counts and it is error to find separately on each specification and suspend the Member on each for consecutive terms. The Local Forum found Respondent guilty on two of three specifications. The evidence on those two is sufficient to find him guilty as charged. The maximum period of suspension for Conduct Unbecoming An Elk is one year. Therefore, he is found guilty as charged and the penalty is suspension for one year. (*Grand Forum, Case No. 501, 1964*)

06 Where several specifications constituting improper conduct are alleged to support a charging count in a complaint, proof of one of said specifications is sufficient to support a finding of guilty as to that count. (*Grand Forum, Case No. 508, 1965*)

07 Error in finding guilty as to one specification cannot justify reversal as to that count if substantial evidence supports a finding of guilty as to other specifications alleged under said count. (*Grand Forum, Case No. 508, 1965*)

08 Some competent and admissible evidence must be found in the record in support of the charge to sustain a finding against an Accused. (*Grand Forum, Case No. 562, 1974*)

09 Presence of the Esteemed Loyal Knight or the Secretary with the Forum, while the

guilt of the Accused or the sentence to be imposed is being determined, is a reversible error. (*Grand Forum, Case No. 238, 1922*)

10 The burden of proof is upon the Accuser, and where the charge is not supported by competent evidence, it is error for the Local Forum to find the Accused guilty. (*Grand Forum, Case No. 366, 1934*)

11 A Local Forum is without jurisdiction to suspend any sentence imposed by it. (*Grand Forum, Case No. 404, 1943*)

12 The burden of proof of a charge against a Member of a Local Lodge requires proof of such charge by clear and convincing evidence. (*Grand Forum, Case No. 468, 1957*)

13 The Presiding Justice of a Local Forum is a member of the Local Forum, and at the conclusion of the testimony at a trial the entire Local Forum consisting of the Presiding Justice and the four members appointed shall go into executive session and decide the guilt or innocence of the Accused by secret ballot. (*Grand Forum, Case No. 737, 1987 and Case No. 745, 1988*)

14 The report on the Lodge floor at a regular meeting of the sentence imposed by a Local Forum constitutes the pronouncement of sentence and becomes its effective date. (*Grand Forum, Case No. 749, 1988*)

15 Restitution may not be ordered as a part of a sentence after a finding of guilt; Section 14.170 provides for the collection of indebtedness owed by a Member to a Club or Lodge. (*Grand Forum, Case No. 745, 1988*)

16 The Forums of the Order are not authorized to impose a fine to augment a sentence, nor may sentences be ordered to run consecutively. (*Grand Forum, Case No. 757, 1988*)

17 A conviction in a Local Forum cannot stand when based solely upon hearsay testimony. (*Grand Forum, Case No. 783, 1990*)

18 When a Local Forum trial has been established and the members of the Local Forum do not attend the trial proceedings, the proper procedure to be followed by the Presiding Justice is to continue the matter to a subsequent date so as to ensure the attendance of all members of the Local Forum and it is improper to dismiss the complaint filed against the Accused because of the failure of Local Forum members to attend the trial. (*Grand Forum, Case No. 883, 1995*)

19 Assessment of "reasonable costs and expenses" by the Presiding Justice is to be based on actual out-of-pocket expenses to the Lodge. (*Grand Forum, Case No. 1161, 2009*) Costs and expenses to be assessed must be necessary as well as reasonable in amount. (*Grand Forum, Case No. 1179, 2010*)

STATUTES ANNOTATED

Section 8.150. It is the duty of the Exalted Ruler and the Lodge to enforce the sentence imposed, unless upon appeal the sentence be stayed or suspended by order of a Grand Justice as provided in Section 7.100. The stay of execution of the sentence is automatically vacated if the appeal is not promptly pursued.

Section 8.160. Upon conclusion of the trial and report to the Lodge of the decision of the Local Forum, the members of the Local Forum shall stand discharged from all further service in the case. If, upon appeal, the judgment of the Local Forum is reversed and a new trial is ordered by the Grand Forum, a new Local Forum shall be appointed in accordance with the provisions of Section 8.040. No member of the preceding Local Forum, except the Presiding Justice, shall be eligible for appointment on the new Local Forum.

Section 8.170. If the Accused is acquitted by the Local Forum, a copy of all pleadings and minutes of the trial shall be sent by certified mail to the Grand Exalted Ruler by the Secretary of the Lodge.

Section 8.180. When a complaint is filed against an Officer or a member of the Local Forum, he shall be suspended from duty if the District Deputy Grand Exalted Ruler of the District in which the Lodge is located files a certificate with the Secretary of that Lodge that in his opinion there is reasonable cause for the complaint. If the Presiding Justice sustains a motion to dismiss and the Accuser appeals, a Justice of the Grand Forum may stay the suspension until final determination of the appeal. If a motion to make more specific is sustained and the Accuser files an amended complaint the District Deputy Grand Exalted Ruler must issue another certificate in order to suspend the Officer.

If the Exalted Ruler is suspended under this Section, his duties shall devolve upon the other chair Officers of the Lodge in order of their rank. If any other Officer is suspended, the Exalted Ruler shall appoint a Member of the Lodge to perform the duties of the suspended Officer. If the suspended Officer has books, records or property in his custody, he shall surrender the same to the appointed Member.

A vacancy of office occurs upon the conviction of an Officer and the office is filled as provided in Section 12.150. If an Officer is acquitted, he shall be restored to office with full rights and privileges, unless his successor has been elected and installed.

• OPINIONS •

01 If the expulsion or suspension of an Exalted Ruler is reversed on appeal, and even though his term of office expires while his appeal is pending, he becomes a P.E.R.

02 Suspension by the District Deputy does not bar an Officer from other privileges of membership pending final determination of

his case. During an appeal of a finding of guilty, the Officer remains suspended from office and if the sentence is sustained by the Grand Forum it becomes effective as and from the date it was rendered by the Local Forum. If not sustained the Officer is restored to all rights and privileges of his office.

STATUTES ANNOTATED

03 Where charges have been preferred against an Officer-elect between the time of his election and the date when he should be installed and an affidavit under Section 8.180 is filed, he should not be installed until the charges have been determined.

04 An Officer who refuses to execute an appropriation voucher properly approved by the Lodge may be charged with failure to perform the duties of his office.

05 The Exalted Ruler should appoint a Member to act in the place of a suspended Officer until final determination of the charges against him or his term of office has expired.

06 An Officer suspended under this Section cannot be a candidate for any Lodge office pending the final determination of the charges, even though a stay of execution has been granted under Section 7.100.

07 The suspension by a District Deputy is within his sound discretion. The filing of a proper certificate under this Section is a condition precedent to the suspension of any Officer.

08 The acquittal of an Officer immediately restores him to all the rights and privileges of his office.

• DECISIONS •

01 Where a District Deputy does not act to suspend a Local Lodge Officer until final determination of the case, such Officer cannot be suspended under Section 8.180 by action of the Local Lodge. Whether the District Deputy should act is a matter of sound and reasonable discretion on his part. (*Grand Forum, Case No. 493, 1963*)

02 The conviction of an Exalted Ruler which is later affirmed by the Grand Forum deprives the individual of the status of Past Exalted Ruler if he was suspended from duty by the District Deputy prior to the expiration of his term of office. (*Grand Forum, Case No. 774, 1989*)

Section 8.190. When a Member is expelled from the Order, his membership card shall be confiscated by the Secretary of the Lodge. No dues shall be remitted to the expelled Member.

When a Member is suspended, he shall surrender his membership card to the Secretary during the term of his suspension and may not attend Lodge meetings and may not be a guest of a Member in the Club rooms. A suspended Member continues to pay dues in order to retain his membership in the Lodge.

• OPINIONS •

01 A suspended Member is automatically reinstated upon expiration of the term of his suspension, provided he has continued to pay his annual dues as required by this Section. An expelled Member can only be restored to membership under the provisions of Chapter 10.

02 Failure of a suspended Member to pay his dues will subject him to being dropped from the rolls for nonpayment of dues under Section 14.160.

• DECISION •

01 An Elk who is suspended from his membership in the Order after due trial becomes an unaffiliated Elk and is not permitted to visit any Elk Lodge during period of suspension. (*Grand Forum, Case No. 749, 1988*)

STATUTES ANNOTATED

Section 8.200. The Secretary of the Lodge shall act as clerk of the Local Forum and shall serve any pleading, process, notice, order or other document, and service thereof shall be deemed complete upon delivering a copy thereof as follows:

- (a) Personally to the party to be served therewith.
- (b) By depositing such pleading, notice or other paper in the United States certified mail, return receipt requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record.

• OPINION •

01 The Secretary, as clerk of the Local Forum, shall keep minutes of all sessions, but should not be present during its executive session.

• DECISIONS •

01 A letter from the Secretary of a Lodge of Elks directing a Member to appear before the Lodge and apologize is not a lawful summons contemplated by the Laws of the Order, and failure or refusal of the Member addressed to respond does not constitute Violation of Obligation. (*Grand Forum, Case No. 225, 1922*)

02 Mere failure or refusal to accept certified mail cannot overcome the presumption of service upon compliance with the provisions of this Section. (*Grand Forum, Case No. 637, 1982*)

(*See 8.050, Decisions 05 and 06.*)

Section 8.210. Whenever the Secretary or a Trustee is the Accuser, Accused, or a probable material witness, except in cases provided in Section 9.090, the Exalted Ruler shall appoint an impartial Member of the Lodge temporarily to perform the duties of the Officer in connection with the filing of papers, or appointment of the Local Forum in the particular case.

• OPINION •

01 The integrity of the Local Forum box is not impeached if the Secretary or a Trustee is the Accuser, because such box was prepared prior to the bringing of the charges. They should not perform other duties under this Section.

• DECISION •

01 The Exalted Ruler and Secretary are disqualified from participating in Local Forum procedures when they are an accused party or probable material witness in the case. (*Grand Forum, Case No. 1211, 2011*) (*See 8.030, Decision 10, and 8.180, Decision 01.*)

APPEALS

Section 8.220. Appeals to the Grand Forum from decisions of the Local Forum may be made by:

- (a) A Member found guilty and sentenced.
- (b) The Accuser when an order to dismiss has been granted by the Presiding Justice.
- (c) The Grand Exalted Ruler from any judgment.

• DECISIONS •

01 Under Section 6 of Article VI of the Constitution the Grand Exalted Ruler has the right of appeal notwithstanding the infliction of penalty. (*Grand Forum, Case No. 21, 1909*)

02 The Grand Forum cannot entertain any appeal not authorized by Statute. (*Grand Forum, Case No. 181, 1918*)

03 The Grand Lodge Statutes do not provide for any appeal by an Accuser except from an order of a Local Forum dismissing a case upon Motion to Dismiss. (*Grand Forum, Case No. 181, 1918*)

04 There is no right of appeal from any order or judgment that is not final. (*Grand Forum, Case No. 181, 1918*)

05 A Lodge cannot appeal from the action of a Local Forum. (*Grand Forum, Case No. 208, 1920*)

06 The Esteemed Loyal Knight, unless he is the Accuser, cannot appeal from the action of a Local Forum sustaining a Motion to Dismiss. (*Grand Forum, Case No. 227, 1921*)

07 An appeal cannot be taken by the Accuser from the verdict and judgment of a Local Forum finding a defendant not guilty. From such a verdict and judgment an appeal can be taken only by the Grand Exalted Ruler. (*Grand Forum, Case No. 246, 1922 and Case No. 332, 1929*)

08 Only appeals as are provided for by Laws of the Order will be entertained by the Grand Forum. In all other matters the remedy of the Member aggrieved, if any, must be by original petition. (*Grand Forum, Case No. 99, 1913 and Case No. 327, 1928*)

09 When a Grand Exalted Ruler appeals only from the sentence imposed by a Local Forum which does not conform to the statutory requirements, a proper sentence will be set by the Grand Forum without the necessity for a trial de novo. (*Grand Forum, Case No. 754, 1988 with dissenting opinions*)

10 The Accuser has no right to appeal where the decision of the Local Forum is "not guilty-case dismissed;" but the Accuser has the right to appeal where the decision is not upon the facts but case is dismissed upon Motion to Dismiss in accordance with Section 8.070. (*Grand Forum, Case No. 227, 1921 and Case No. 368, 1933*)

11 Where a final verdict of not guilty or order of dismissal is rendered by the Local

Forum, the record may be presented to the Grand Exalted Ruler, who alone has the right of appeal to the Grand Forum in such cases. When the Grand Exalted Ruler appeals, a new trial must be had on the case, upon the merits, before the Grand Forum. (*Grand Forum, Case No. 299, 1926*)

12 Statutes referring to appeals are mandatory, and when one fails to comply with their provisions the appeal may be dismissed. (*Grand Forum, Case No. 377, 1935*)

13 Strict compliance with the provisions of Sections 8.220-8.250 is necessary to entitle one to have his case reviewed by the Grand Forum. (*Grand Forum, Case No. 386, 1937*)

14 After appeal is taken, it is too late to withdraw the original charges of which the Accused was acquitted. However, the request to withdraw the appeal may be granted. (*Grand Forum, Case No. 407, 1944*)

15 Where there is no trial or hearing before the Local Forum, the Grand Forum is without jurisdiction in an appeal except where a complaint is dismissed after Presiding Justice of Local Forum has sustained a Motion to Dismiss. (*Grand Forum, Case No. 436, 1954*)

16 Where appellant appears before the Grand Forum and withdraws his appeal, the decision and judgment of the Local Forum will be made final. (*Grand Forum, Case No. 556, 1973*)

17 The Grand Exalted Ruler has the right of appeal to the Grand Forum notwithstanding acquittal of the Accused by the Local Forum. (*Grand Forum, Case No. 657, 1983*)
See 8.240, Decision 04.

18 All of the procedures set forth in Chapter 8 of the Grand Lodge Statutes must be followed by a Lodge in order to ensure that due process is afforded to a Member against whom a complaint has been filed. (*Grand Forum, Case No. 1026, 2002.*) *See 8.040, 8.050, 8.060, 8.070, 8.080, 8.090, 8.100 and 8.140.*

19 When an appeal is dismissed without prejudice, the Accuser may start the process anew in which case all of the statutory provisions required of the Accuser, Accused, Lodge, Presiding Justice and Local Forum must be followed. (*Grand Forum, Case No. 1021, 2002.*) *See 8.040, 8.050, 8.060, 8.070, 8.080, 8.090, 8.100 and 8.140.*

STATUTES ANNOTATED

Section 8.230. The notice of appeal shall be sent to the Secretary of the Lodge and the Grand Secretary by:

- (a) A Member found guilty within thirty (30) days after judgment is entered in the minutes of the Lodge. Unless waived by the Grand Forum, the notice of appeal shall be accompanied by a certified check or money order payable to the Lodge in the amount of \$250.00 as a deposit to cover the costs of transcription of the recorded testimony. The balance of the cost of transcript, if any, shall be paid pursuant to Section 8.240(a).
- (b) The Accuser within thirty (30) days after the order to dismiss is reported to or entered in the minutes of the Lodge.
- (c) The Grand Exalted Ruler, if he so decides, within thirty days (30) after receipt of written notice of the judgment of the Local Forum but in no case after 240 days from the date the judgment was entered upon the minutes of the Lodge.

The appellant shall also serve a copy of the notice of appeal on the opposing party or parties in the Local Forum proceedings. The time for appeals cannot be extended; failure to comply with the limitations will cause the appeal to be denied.

(NOTE: See “Exhibit G” to Forum Rules for Form of Notice of Appeal.)

• DECISION •

01 Under GLS 8.230 and GFR 2:7, notice of appeal must be filed with the Grand Secretary within 30 days of the entry of the decision of the Local Forum in the Lodge meeting minutes.

Filing an appeal only with the Lodge Secretary deprives the Grand Forum of jurisdiction. (*Grand Forum, Case No. 1400, 2016*)

Section 8.240. The Secretary of the Lodge upon receipt of the notice of appeal shall take the following action:

- (a) On an appeal by the Member found guilty, a copy of all pleadings and minutes of the trial in the case shall be sent to the Grand Secretary. The recorded testimony shall be promptly transcribed within thirty (30) days after the notice of appeal, certified by the Presiding Justice and sent to the Grand Secretary. The balance of the costs of the transcription shall be paid by the Accused within thirty (30) days after completion of the transcript. Upon failure to pay said cost, the appeal will be dismissed. The Accuser shall be entitled to a copy of the transcription upon payment of the cost thereof.
- (b) On appeal by an Accuser, a copy of the pleadings, minutes of the case, order of dismissal issued by the Presiding Justice and minutes of the Lodge wherein the order of dismissal is entered shall be sent to the Grand Secretary. The cost of the appeal shall be paid by the Accuser.

- (c) In the case of an appeal by the Grand Exalted Ruler, copies of all pleadings and minutes of the trial shall be certified by the Secretary and sent to the Grand Secretary. The case will be retried upon its merits before a Justice of the Grand Forum designated by the Chief Justice.

• OPINION •

01 Neither the Lodge nor the Secretary may decide if the notice of appeal is adequate. The Lodge in its brief to the Grand Forum may raise this question.

• DECISIONS •

01 Local Forums shall keep an accurate record of the proceedings of the trial and Lodge Secretaries should make a prompt and complete return to the Grand Secretary of all such proceedings, including the pleadings and the testimony and exhibits given and received in evidence, when an appeal is taken from the Local Forum. (*Grand Forum, Case No. 333, 1929*)

02 The Grand Forum cannot pass upon an appeal without being furnished with a record of the Local Forum proceedings. In such a case, membership privileges of the accused may be restored pending disposition of the appeal. (*Grand Forum, Case No. 406, 1944*)

03 The Grand Forum cannot sustain a conviction by the Local Forum without Minutes or a transcript of testimony before a Local Forum which are required to be transmitted to the Grand Secretary by the Secretary of the Local Lodge when the Accused gives notice of his appeal from the judgment of the Local Forum. When lack of due process is clearly indicated in the record on appeal furnished by a Lodge, the Grand Forum on its own motion may decline to entertain a motion by a convicted appellant to withdraw his appeal. (*Grand Forum, Case No. 522, 1967*)

04 Accuser in a case before the Local Forum has right of appeal where complaint is dismissed on Motion to Dismiss.

When inadequate record on appeal furnished by Local Lodge fails to clearly show procedural steps taken below, Grand Forum will exercise its judgment in determining what did in fact take place.

Where record on appeal shows that Accused entered a plea of "not guilty" and the Local Forum immediately retired to consider the charges in the complaint and the plea, rendering verdict of "not guilty" thereon, without hearing evidence, will be deemed decision granting a Motion to Dismiss, and not a decision on the facts.

Grand Forum is empowered to reverse a Local Forum decision and remand for further proceedings according to law. (*Grand Forum, Case No. 523, 1967*)

05 An appeal by a convicted appellant from the judgment of the Local Forum may be dismissed by the Grand Forum with prejudice upon appellant's motion when no other interests are prejudiced by granting such motion. (*Grand Forum, Case No. 524, 1967*)

06 The Grand Forum is fully warranted in reversing a conviction by the Local Forum and in dismissing the complaint when it appears that substantial justice has not been done and where no useful purpose will be served in subjecting the Accused to a second trial. (*Grand Forum, Case No. 528, 1968*)

07 Duties of the Lodge Secretary and the Presiding Justice of the Local Forum in appealed cases, are clearly set forth in Section 8.240. Minutes or a transcript of testimony taken are highly essential, without which, since the Lodge, not the convicted Accused, must provide, the Grand Forum cannot sustain a conviction in the lower tribunal. (*Grand Forum, Case No. 522, 1967*)

08 On appeal, the Grand Forum will give careful attention to the Record on Appeal to determine whether due process has been afforded the Accused in the Local Forum. (*Grand Forum, Case No. 525, 1967*)

09 Appeal by the Grand Exalted Ruler of a not guilty verdict rendered by a Local Forum necessitates a new trial upon the merits before the Grand Forum. (*Grand Forum, Case No. 657, 1983*) See Decisions under 7.090, 8.100, 8.110 and 8.220.

10 When a Grand Exalted Ruler appeals only from the sentence imposed by a Local Forum which does not conform to the statutory requirements, a proper sentence will be set by the Grand Forum without the necessity for a trial de novo. (*Grand Forum, Case No. 754, 1988 with dissenting opinions*)

11 Upon an appeal by the Grand Exalted Ruler, from a judgment of a Local Forum, for any reason, the case must be retried in accordance with Section 8.240(c) by a Justice of the Grand Forum selected by the Chief Justice. (*Grand Forum, Case No. 814, 1992, with dissenting opinion*)

STATUTES ANNOTATED

12 Upon an appeal by the Grand Exalted Ruler, from a judgment of a Local Forum, the Justice, so selected to retry the case, may grant a motion, by stipulation of the parties, that the case be presented upon the record of evidence presented in the Local Forum trial as represented by transcript filed in the case, rather than a retrial where there is no additional evidence on either side to be presented. (*Grand Forum, Case No. 814, 1992*)

13 The Lodge Secretary has no duty to cause the recorded testimony to be transcribed unless and until he receives a notice of appeal. (*Grand Forum, Case No. 823, 1992*)

14 It is highly improper for the Local

Lodge or any Officer of the Lodge to destroy records of a Local Forum case which has been appealed to the Grand Forum until the final disposition of the appeal has been made by the Grand Forum. (*Grand Forum, Case No. 1022, 2002.*) See 7.020, *Opinion 02.*

15 In the case of an appeal by the Grand Exalted Ruler pursuant to Section 8.240 of the Laws of the Order where the Respondent has elected not to participate in the retrial of the case on its merits and the record on appeal from the Local Forum is uncontroverted, the Administrative Justice assigned to the matter may consider the case based on the record produced in the Local Forum. (*Grand Forum, Case No. 1040, 2003*)

Section 8.250. An appeal from the decision of the Local Forum must use the following procedure:

- (a) The Appellant may serve upon the adverse party or his counsel an opening brief and appendix, if any, in support of the appeal, within fourteen (14) days after (1) filing of the proceedings below; (2) filing of a settled statement of the proceedings if no record was made; or (3) filing of Notice of Appeal if no transcript or settled statement is to be filed.
- (b) Within fourteen (14) days after receipt of the opening brief, the Appellee may serve upon the Appellant or his counsel an answering brief.
- (c) The Appellant shall have ten (10) days to file a reply brief.
- (d) A Justice of the Grand Forum may extend the time limits.

Copies of all briefs shall be sent to the Grand Secretary. Failure to file a timely brief will automatically constitute a waiver of the privilege to file such brief. Any party to an appeal, after the passage of the allotted time period for a brief to be filed by the adverse party, may file an appropriate brief.

When the time period has expired, the Grand Secretary shall furnish copies of all briefs received or send a notice that none or certain specified briefs were not filed, to all Justices of the Grand Forum.

• **DECISION** •

01 Appeal briefs should be timely served and filed. In unusual situations, the Grand Forum may, in its discretion, waive the strict application of the rule, where due process or substantial justice demands. In such case, the Appellant must act promptly and without delay. (*Grand Forum, Case No. 456, 1955*)

— CHAPTER 9 —

OFFENSES AND PENALTIES

Section 9.010. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may remove any Lodge Officer or officer of a separate corporation formed pursuant to Section 16.030 who neglects the duties of his office, is guilty of contumacy or of conduct injurious to the Order. The Executive Order shall be served on the Officer personally, or by Certified Mail, Return Receipt Requested or by regular first class mail in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served at his or her address of record and supported by a certificate of mailing. Copies of the Order shall be furnished to the Lodge Secretary and to the Grand Secretary. The Executive Order may provide for suspension from social privileges in all Lodges or organized Elks functions for a period not to exceed three years and/or ineligibility to hold a Lodge office or separate corporation office for a period not to exceed three years.

Within ten (10) days of its receipt the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary.

(NOTE: See "Exhibit M" to Forum Rules for Form of Notice of Appeal.)

• OPINION •

01 The Grand Exalted Ruler by Executive Order may remove an Officer who fails or refuses to do his duty relating to filing and prosecution of charges before a Local Forum.

• DECISIONS •

01 Where an Exalted Ruler stands by, without protest and knowingly permits the Lodge initiation fee to be reduced from \$35.00 to \$15.00, it was his duty to refuse to entertain the motion or put it to vote. He was properly removed from office by the Grand Exalted Ruler. (*Grand Forum, Case No. 401, 1942*)

02 Lodge Officer removed or suspended from office by Executive Order is not entitled to a hearing before such Order becomes effective. Where accused admits receipt of Executive Order, he cannot complain it was not by registered mail. Accused may appeal from the Order to the Grand Forum. (*Grand Forum, Case No. 427, 1950*)

03 Where an appeal is taken from an Order of Removal of a Local Lodge Officer, the appeal is governed solely by Section 9.010, Laws of the Order. (*Grand Forum, Case No. 427, 1952*)

04 The extent of authority of the Grand Forum on an appeal from an Order of Removal of a Local Lodge Officer under the Laws of the Order, supra, is (a) to determine whether the Order was issued in accordance with the

Law, and (b) whether or not there was an abuse of discretion. If the Grand Exalted Ruler has not acted arbitrarily or capriciously, the Order of Removal must be sustained. (*Grand Forum, Case No. 429, 1952*)

05 On an appeal from an Order of Removal of a Local Lodge Officer, the Grand Forum will not only ascertain whether the Order of Removal was authorized under the Law, but will examine the facts to see if they support the Grand Exalted Ruler in the exercise of his discretionary power. (*Grand Forum, Case No. 429, 1952*)

06 It being conceded that the Order of Removal was issued in the manner prescribed by Law, the authority of the Grand Forum is limited to a determination of whether or not the Grand Exalted Ruler abused his discretion. (*Grand Forum, Case No. 458, 1955*)

07 When the evidence shows that the Grand Exalted Ruler did not act arbitrarily, the Order of Removal must be sustained. (*Grand Forum, Case No. 458, 1955 and Case No. 777, 1990*)

STATUTES ANNOTATED

08 When the evidence has been fully developed and the legal effect is clear, the Grand Forum in its discretion may decline to permit interrogatories to be propounded. (*Grand Forum, Case No. 458, 1955*)

09 The action of the Secretary of a Lodge in (a) failing to furnish accurate and adequate information to the Board of Trustees (or Board of Directors as may be applicable) for the purpose of enabling the Board to prepare a proper budget and otherwise supervise the financial affairs of the Lodge; (b) failing to read bills against the Lodge in regular Lodge meetings as required by Law; (c) failing to file the annual report with the Grand Lodge and (d) failing to file for approval with the Grand Lodge Committee on Judiciary a revision of the By-Laws regularly voted upon by the Lodge, constitute conduct injurious to the Order and thereby furnish adequate ground for his dismissal by Executive Order of the Grand Exalted Ruler. (*Grand Forum, Case No. 500, 1963*)

10 The Grand Exalted Ruler may, by Executive Order issued pursuant to Section 9.010, of the Laws of the Order, remove from office the Exalted Ruler of a Local Lodge who conducts an initiation wherein persons ineligible to membership are purportedly initiated into his Lodge. (*Grand Forum, Case No. 503, 1964*)

11 Appeal from Order of Grand Exalted Ruler removing a Local Lodge Officer requires a hearing before a Justice of the Grand Forum and *de novo* consideration of the case upon the merits.

Grand Exalted Ruler, as Chief Executive of the Order, may remove Local Lodge Officer for neglect of duties or guilty of conduct injurious to the Lodge or the Order.

Section 16.060 and 9.140 must be read together in the instant case and the controlling words in the Laws of the Order will be construed according to the reasonable and well accepted sense thereof. Immoral or unusual conduct peculiar to the segment of the territory of the Order will not be considered as altering generally accepted standards as recited in the Laws of the Order.

Removal of Exalted Ruler for countenancing or affirmatively participating in "shows" including conduct of lewd or unrefined nature in the Lodge room, in close proximity to Members must be sustained. (*Grand Forum, Case No. 526, 1967*)

12 The execution of a contract for the acquisition of capital assets without Lodge approval is an affirmative, willful neglect of duty by a trustee in failing to pursue proper channels in relation to the transaction and constitutes grounds for his removal from office by the Grand Exalted Ruler. (*Grand Forum, Case No. 527, 1967*)

13 The offense designated as "Conduct Unbecoming An Elk" is implicitly included within the provisions of Section 9.010, permitting the removal of an Officer for neglecting the duties of his office or engaging in conduct injurious to his Lodge or the Order. Such conduct need not be connected with some official function of the Lodge or the Order. (*Grand Forum, Case No. 539, 1971*)

14 An Executive Order of the Grand Exalted Ruler removing a Local Lodge Officer allegedly guilty of neglect of duty of his office, and, of conduct injurious to his Lodge or the Order, will not be sustained on appeal in absence of factual proofs supporting such discretionary exercise of authority vested in the Grand Exalted Ruler. (*Grand Forum, Case No. 619, 1980*)

15 An Executive Order of the Grand Exalted Ruler removing a Local Lodge Officer allegedly guilty of conduct injurious to his Lodge or the Order, will be sustained on appeal as being issued in accordance with the Laws of the Order where the grounds for the removal of Officer are stated with reasonable specificity. (*Grand Forum, Case No. 663, 1983*)

16 An Executive Order of the Grand Exalted Ruler issued pursuant to the authority granted by this section, which merely states the conclusionary terms of the statute as the basis for removal from office without specifying the grounds therefore, is not issued in accordance with Law and is not sustainable on appeal. (*Grand Forum, Case No. 619, 1980*)

17 An Executive Order of the Grand Exalted Ruler removing a Local Lodge Officer will be sustained on appeal where one or more of the allegations are proven. (*Grand Forum, Case No. 701, 1985*)

18 The action of an Officer in presenting a female person to others at an Elk gathering as his wife, when in fact she is not, constitutes conduct injurious to the Order. (*Grand Forum, Case No. 494, 1963*)

19 This is a case of original jurisdiction before the Grand Forum as it involves a controversy between a Member of the Order and a Local Lodge. Plaintiff charges that the Defendant Lodge violated the Laws of the Order in the manner it elected three candidates.

The Grand Forum is of the opinion that while it has jurisdiction to hear and determine the issue whether there was a violation of the Laws of the Order in the case, any disciplinary action to be taken against the Lodge should be left to the executive branch of the Order. Section 9.010 of the Laws of the Order grants authority to the Grand Exalted Ruler to institute disciplinary measures for a violation of the balloting provisions of the statutes. (*Grand Forum, Case No. 571, 1977*)

20 Action by a Lodge Secretary intentionally filling out an Annual Report to the Grand Lodge with false membership figures, resulting in underpayment of the Grand Lodge per capita fee, constitutes neglect of the duties of his office, thereby justifying removal from office pursuant to Section 9.010 GLS. (*Grand Forum, Case No. 937, 1997*)

21 It is not a defense to allegations of misconduct or neglect that prior Officers or current Officers in other Lodges in the Order are guilty of the same transgressions. Each Officer, when entrusted with the duties of his office, is charged with responsibilities of his office and will be judged individually when allegations of misconduct and/or neglect of his duties are involved.

It is not a defense nor has it ever been a defense that misconduct or neglect may be excused because Officers in prior years or Officers of other Lodges are guilty of the same conduct. (*Grand Forum, Case No. 923, 1997; Case No. 955, 1999*)

22 Absent a valid excuse, "obtained in advance," it is mandatory that Officers, who are required by Statute, attend the District Deputy Clinics. (*Grand Forum, Case No. 1107, 2006*)

23 The Grand Forum may only consider the Record on Appeal, the transcripts of the proceedings, and the written briefs on the Appellant and Respondent. (*Grand Forum, Case No. 1097, 2006*)

24 Timely filing of a notice of appeal is required for the Grand Forum to have jurisdiction to hear the appeal. If notice of appeal is not filed within ten days after receipt by the Officer of the Executive Order, the appeal must be dismissed. (*Grand Forum, Case No. 1203, 2011*)

25 Notice of appeal from an Executive Order is timely filed if mailed on or before the tenth day after its receipt (with adequate proof of such mailing). (*Grand Forum, Case No. 1227, 2011*)

26 Imposition of a penalty that is materially disproportionate to the severity of the conduct proven can be found to be arbitrary and capricious. Upon making such a determination, Grand Forum is justified to modify the said materially disproportionate penalty to that which would be more fair and just under modern generally prevailing standards for sentencing. (*Grand Forum, Case No. 1269, 2013*)

27 Executive Order suspending a Member from Club privileges does not suspend the Member from Lodge activities. The Member retains his rights to attend Lodge meetings and participate in Lodge programs so long as they do not include Club privileges. (*Grand Forum, Case No. 1254, 2013*)

Section 9.011. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may suspend a Member from being a Lodge Officer and from social privileges in all Lodges or organized Elks functions when that Member has neglected the duties of an office, or is guilty of Contumacy or Conduct Injurious to the Order. The Executive Order shall be served on the said Member personally or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served at his address of record. Copies of the order shall be furnished to the Lodge Secretary and to the Grand Secretary. The Executive Order may provide for suspension from social privileges in all Lodges or organized Elks functions for a period not to exceed three years and/or ineligibility to hold a Lodge office for a period not to exceed three years.

STATUTES ANNOTATED

Within ten (10) days of its receipt, the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary.

(NOTE: See “Exhibit M” to Forum Rules for Form of Notice of Appeal.)

• DECISION •

01 Executive Order suspending a Member from Club privileges does not suspend the Member from Lodge activities. The Member retains his rights to attend Lodge meetings

and participate in Lodge programs so long as they do not include Club privileges. (*Grand Forum, Case No. 1254, 2013*)

Section 9.012. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may suspend a Member from Membership for violating the provisions of an existing Executive Order or may expel a Member from Membership for willfully violating the provisions of an existing Executive Order. The Executive Order shall be served on the said Member personally or by certified mail, return receipt requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served at his address of record. Copies of the order shall be furnished to the Lodge Secretary and to the Grand Secretary. Within thirty (30) days of its receipt, the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary.

• DECISIONS •

01 The Grand Exalted Ruler has no Constitutional or Statutory authority to suspend membership rights without proof of violation of a previous Executive Order. (*Grand Forum, Case No. 1221, 2011*)

02 A Member suspended from Club privileges who enters a Club premises solely to

conduct Lodge business and does not purchase or consume anything in the Club, nor otherwise utilize the Club in any manner, nor interact with others while passing through, is not in violation of the Executive Order of Club suspension. (*Grand Forum, Case No. 1254, 2013*)

Section 9.020. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may suspend any State Association for violation of any of the provisions of the Constitution or Laws of the Order. Any State Association under suspension shall transact no further business. The Executive Order shall be served on the President or Secretary of the Association either personally or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record. Copy of the Order shall be sent to the Grand Secretary.

Within ten (10) days of its receipt the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary. The notice of appeal must be signed by the State President and at least two other elected Officers of the Association.

(NOTE: See “Exhibit M” to Forum Rules for Form of Notice of Appeal.)

STATUTES ANNOTATED

Section 9.030. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may declare a State Association to be illegal. It shall cease to exist and transact no further business, except that necessary to its dissolution and winding up of its affairs. The Executive Order shall be served on the President or Secretary of the Association either personally or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record. Copy of the Order shall be sent to the Grand Secretary.

Within ten (10) days of its receipt the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary. The notice of appeal must be signed by the State President and at least two other elected Officers of the Association.

(NOTE: See “Exhibit M” to Forum Rules for Form of Notice of Appeal.)

• OPINION •

01 A Lodge can be a member of only one State Association composed of Lodges in its same state except as provided in Article III, Section 20 of the Constitution. See *Opinion 2 to Section 20, Article III.*

Section 9.040. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may remove any State Association Officer who neglects the duties of his office, is guilty of Contumacy or of Conduct Injurious to the Order. The Executive Order may be served on said Officer personally or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record. Copies of the Order shall be sent to the State Association Secretary and the Grand Secretary. The Executive Order may provide that he be ineligible to hold office in any State Association or Lodge for a period not to exceed three years.

Within ten (10) days of its receipt the Order may be appealed to the Grand Forum by filing a notice of appeal with the Grand Secretary.

(NOTE: See “Exhibit M” to Forum Rules for Form of Notice of Appeal.)

Section 9.050. Any Member of the Order knowingly attending a meeting of a suspended or illegal State Association except for the purposes specified in Section 9.030 shall be considered to be guilty of Contumacy and punished accordingly.

STATUTES ANNOTATED

Section 9.060. A Member shall be expelled from the Order upon being found guilty by a Local Forum of:

- (a) Any willful misrepresentation resulting in his improperly receiving aid or relief from the Order.
- (b) Any willful material misrepresentation with respect to initiation or admission or one who shall knowingly aid or abet another in such misrepresentation.
- (c) Being a member of or directly or indirectly participating in the activities of any group or organization, or supporting or adhering to beliefs or tenets advocating the overthrow of the Government of the United States or any of its political subdivisions by force or violence.
- (d) Having plead guilty, entered a plea of nolo contendere or been finally convicted of a felony (*Section 1.030*) or a misdemeanor involving moral turpitude (*Section 1.110*).
- (e) Having violated his obligation to the injury of a Member in his family relations.

• OPINIONS •

01 No charges would be justified against a Member acquitted on the ground of insanity and committed to an asylum. No final conviction as required under this Section.

02 Moral turpitude is a required element to augment the conviction of a misdemeanor.

03 The only evidence needed in subsection (d) is a certified copy of the record of the conviction which has not been appealed or reversed within the time permitted by Law.

04 The granting of an absolute dimit should not be permitted to a Member guilty under subsection (d).

05 A Member found guilty of a violation of subsection (d) shall be expelled from the Order. Neither the Lodge nor the Presiding Justice has any discretion in the matter.

06 Some of the factors which would support a violation under subsection (b) are:

- a. Failure to indicate membership in or an application to another Lodge in the Order.
- b. Concealment of a dishonorable discharge from the Armed Forces.
- c. Misrepresentation of one's true name.
- d. Misrepresentation of residency.
- e. Failure to state all the facts regarding disposition of a previous application for membership in the Order.

07 Applicants who have falsified their applications and been tried and expelled are not entitled to a refund of any fees paid.

08 A convicted felon who was pardoned and subsequently initiated by the Lodge without concealment of the facts cannot be charged under this Section.

09 Whenever an applicant, in stating in his application he had never been rejected for membership, whereas in fact he had, made such representation in the belief his previous application had never been voted upon, presents a question of fact for determination by a Local Forum. Charges may be filed by any Member of the Lodge, but until determined by the Local Forum such Member remains in good standing if his dues are paid.

10 The Secretary of the Lodge wherein an applicant was rejected should prefer charges against him if he applies for and becomes a Member of another Lodge to whom he falsely represented that he had not been proposed for membership in another Lodge.

11 It is improper to drop a duly elected and initiated Member before a judgment of the Local Forum is rendered on information received from another Lodge.

• DECISIONS •

01 Forceful talk favorable to the practices of the Bolsheviks and derogatory to the Government of the United States, if established by ample evidence, justifies a verdict of guilty of willful violation of obligation and the imposition of sentence of expulsion. (*Grand Forum, Case No. 218, 1921*)

02 Membership in an organization advocating the overthrow of government by revolution is a violation of the Obligation of an Elk. (*Grand Forum, Case No. 206, 1921*)

03 Misrepresentation to a Lodge and concealment of material facts in an application for membership in the Order warrant expulsion. (*Grand Forum, Case No. 215, 1921*)

04 Omission on the part of an applicant to state all the facts regarding the time and place and disposition of previous applications must be regarded as a false statement. (*Grand Forum, Case No. 215, 1921*)

05 Moral turpitude must be involved in a misdemeanor in order that the offense may come within the scope of that offense. (*Grand Forum, Case No. 272, 1924*)

06 A Member of a Lodge who is convicted of a felony or other criminal offense in a Federal or State Court which is punishable by imprisonment in a State or Federal Penitentiary, is guilty of an offense against the Laws of the Order, and must be expelled. (*Grand Forum, Case No. 278, 1924*)

07 Proof of the finality of the conviction must be shown in order to sustain a conviction of that offense designated in Subsection (d) of Section 9.060 of the Laws of the Order as "Final conviction in any State or Federal Court of a misdemeanor involving moral turpitude." (*Grand Forum, Case No. 272, 1924*)

08 A false answer to the question in the application as to previous applications for membership in the Order constitutes an offense punishable by expulsion. (*Grand Forum, Case No. 285, 1925*)

09 The record of a Municipal Court purporting to carry a judgment of conviction for conduct which in truth and in fact does not constitute in the eyes of the law a crime or misdemeanor of any kind is not sufficient to support a verdict of "Guilty" by the Local Forum. (*Grand Forum, Case No. 300, 1926*)

10 The offense of mailing obscene matter, defined by Section 211 of the United States Criminal Code, is a felony. A certified transcript of the record of conviction of a Member of the Order of a felony or a misdemeanor involving moral turpitude is, when received by the Secretary of a Lodge, a suf-

ficient complaint against such Member under the Laws (*Section 9.060*) of the Order; and the certified transcript of the record of conviction is of itself proof of an offense against the Order, and the Local Forum cannot go back to the judgment of conviction and inquire into the guilt of the Accused of the offense of which he stands convicted. (*Grand Forum, Case No. 332, 1929*)

11 Where a person is unlawfully elected to membership in a Lodge by reason of neglect or omission of the Officers of the Lodge to comply with the Laws of the Order, but is not himself guilty of any act of misrepresentation or deceit in relation to his eligibility for membership in the Order, his election is invalid unless legalized by Order of the Grand Exalted Ruler, but an Order of expulsion will not be entered against him if he surrenders all indicia of membership and ceases to exercise the rights of membership in the Order. (*Grand Forum, Case No. 331, 1929*)

12 It is final conviction of a misdemeanor involving moral turpitude or of a felony in a State or Federal Court which Section 9.060 makes an offense against the Laws of the Order. Therefore, a Lodge should not proceed in accordance with the provisions of Section 9.090 until the time has expired for appeal in all cases of conviction of a Member of misdemeanor involving moral turpitude or of a felony. If appeal is taken from the judgment of the trial court, the Lodge should await the decision of the appellate court. (*Grand Forum, Case No. 272, 1924*)

13 In a proceeding under Section 9.060 of the Grand Lodge Statutes for the expulsion of a Member because he has finally been convicted of a misdemeanor involving moral turpitude or a felony, in any State or Federal Court, the issues before the Local Forum, and upon appeal before the Grand Forum, are (1) whether the Member was convicted in a State or Federal Court of a misdemeanor involving moral turpitude or of a felony and (2) whether it was a final conviction. (*Grand Forum, Case No. 430, 1952*)

14 The offense of embezzlement of funds of the United States Government by an Officer thereof involves moral turpitude within the meaning of Sections 9.060 of the Laws of the Order. (*Grand Forum, Case No. 430, 1952*)

15 Where a person has been found guilty, after trial, in the State District Court having jurisdiction of the crimes of larceny punishable in the state prison, under two separate complaints, and where the State District Court imposed a sentence of three months

STATUTES ANNOTATED

at a House of Correction and suspended the execution of the sentence and placed the defendant on probation, and was ordered to make restitution in one case, and where the court placed the defendant on probation and the defendant was ordered to make restitution in another case, and no appeal was taken from the judgments within the time allowed by the laws of the Commonwealth or State in which the conviction was obtained, such person has been finally convicted in each case within the meaning of Sections 9.060 and 9.090 of the Statutes of the Order. (*Grand Forum, Case No. 400, 1956*)

16 A Member may be properly expelled from the Order upon conviction of larceny, since this was a misdemeanor involving moral turpitude. (*Grand Forum, Case No. 398, 1941*)

17 Sections 9.060 and 9.090 of the Laws of the Order providing for expulsion from the Order upon conviction of a felony in a State or Federal Court is mandatory even though a Member seeks within the time permitted by the Laws a Local Forum review. (*Grand Forum, Case No. 530, 1968*)

18 A misdemeanor involves moral turpitude where it involves conduct of a base, degrading and immoral nature. (*Grand Forum, Cases No. 510 & 511, 1965*)

19 Any Member who publicly makes threats against his Lodge and his Lodge Officers, and/or who applies to a court of law for a search warrant, violates his Obligations as an Elk, and engages in Conduct Unbecoming An Elk. (*Grand Forum, Case No. 378, 1937*)

20 An applicant for membership in the Benevolent and Protective Order of Elks who answers "No" to the question in the membership application as to whether such applicant has ever pleaded guilty to, or been convicted of a felony, when in fact the evidence reveals such convictions, such act constitutes an offense under the provisions of Section 9.060(b) of the Annotated Statutes requiring a verdict of guilty and expulsion from the Order. (*Grand Forum, Case No. 935, 1997*)

Section 9.070. Offenses against the Laws of the Order, other than those specified in Section 9.060, which upon trial and conviction by a Local Forum shall provide for penalties as indicated, are:

- (a) Knowingly making an unjustifiable or untruthful charge against a Member in a Complaint to the Local Forum. Suspension from membership for not less than six (6) months nor more than three (3) years or expulsion.
- (b) Knowingly organizing or becoming a member of any society or organization limited to Members of the Order not expressly authorized by the Constitution or Laws of the Order. Suspension from membership for not less than six (6) months nor more than three (3) years or expulsion.
- (c) Second conviction by a Local Forum. The convictions need not be related to the same matter. Suspension from membership for not less than six (6) months nor more than three (3) years or expulsion.
- (d) Contumacy. (*Section 1.010*) Suspension from membership for not less than three (3) months nor more than two (2) years or expulsion.

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- (e) Using the certificate of membership, or using or exposing any name or emblem of the Order on labels, signs, cards, periodicals, or business literature of any kind, or using a list of Members of the Order, or in any other manner using his relation or connection with the Order for commercial or political purposes, or in a business transaction. Suspension from membership for not less than one (1) month nor more than three (3) years or expulsion.
- (f) Soliciting support for his nomination or election to an Office in a Lodge, permitting others to solicit such support or voluntarily soliciting such support for another, by advertisement in the public press, by poster or flyer publicly exhibited or distributed, by postal card, by letter or circular sent through the mail in an unsealed envelope, by radio or television broadcast or by any public method or appeal. Suspension from membership for not less than one (1) month nor more than three (3) years or expulsion.
- (g) A willful violation of Section 16.050 by any Member of a Lodge shall be grounds for his immediate removal by the Grand Exalted Ruler from any Office or Committee and shall constitute an offense against the Laws of the Order. Suspension from membership for not less than one (1) month nor more than one (1) year or expulsion.
- (h) Violation of his Obligation:
1. Willful commission. Suspension from membership for not less than one (1) month nor more than three (3) years or expulsion.
 2. Not willful commission. Suspension from membership for not less than one (1) month nor more than three (3) years.

Except as otherwise provided, "Violation of Obligation" shall include:

- (i) Every violation of the Constitution, Laws of the Order or the By-Laws of a Lodge.
 - (ii) Every act in violation of any obligation prescribed by the Ritual of the Order.
 - (iii) Offenses defined as a misdemeanor. (*Section 1.100*)
 - (iv) Offenses against the moral law, not punishable as crimes, such as deceit, misrepresentation or fraud.
- (i) Aiding or abetting an unaffiliated Elk or an expelled Elk in violating Sections 14.190 or 14.200. Suspension from membership for not less than three (3) months nor more than two (2) years.
- (j) Conduct Unbecoming An Elk. Suspension from membership for not less than one (1) month nor more than three (3) years.
- "Conduct Unbecoming An Elk" shall include personal conduct likely to bring reproach upon the Order and every willful violation of House or Club Rules.

STATUTES ANNOTATED

• OPINIONS •

01 A Member may be charged with Conduct Unbecoming An Elk either at the Lodge, Club or elsewhere. The following are some actions which would support such a charge:

- a. Misrepresentation made in obtaining credit for goods purchased.
- b. Criticizing and falsely maligning a Lodge Officer with the intent to harm the Officers and cause dissension among the Members.
- c. Stopping payment on a check given after his initiation to pay initiation fees and current dues upon a request to be dropped from membership. Upon initiation he became a Member and should be charged.
- d. Surrendering one's membership card to a non-Elk for the purpose of permitting person to gain admission to the Club room.

02 Some activities by Members which might be considered as using their membership for business or commercial purposes are:

- a. Listing membership in the Order on an advertisement for public office.
- b. Preparation of a book displaying names, history and other data of Local Lodges, and pictures and names of present and past Officers and securing ads from businesses in the communities where Lodges exist.
- c. Release of the Lodge mailing list for the purpose of soliciting contributions.
- d. The use of the name Elk as part of the name of an invented product.
- e. Commercial sponsorship of teams in an Elks Bowling League. *See Opinions 03 (f) and 13 to Section 9.070.*
- f. An Elks band competing for business with other bands.
- g. A sale of pamphlets containing an Elks Toast and bearing an emblem of the Order.
- h. Solicitation of advertising for profit in connection with publicizing Elk youth programs.
- i. Sharing in the profit of a privately operated camp by allowing use of Lodge name.
- j. The organization of a professional baseball team.

k. Formation of an "Elks Quartette of _____ Lodge" which sings for profit even though it proposes to donate a part of its earnings to the Lodge or the Order. *See 9.070, Opinion 14 for variance.*

- I. Engaging in any business enterprise and utilizing the name of a Lodge, State Association or the Order.

03 The following activities are some examples which constitute a violation under subsection (b) of this Section:

- a. A group organized as an adjunct to the Lodge which sponsors fundraising activities the proceeds of which it retains, and pledges to vote or votes as a unit at Lodge meetings.
- b. Creation of a charity fund to pay sick or death benefits by assessing members of the fund or any other scheme or device to pay death benefits.
- c. A formal State organization of Local Lodge Secretaries.
- d. A "Twenty-Five-Year-Club."
- e. A "Gourmet Club" closed to general membership which holds meetings, elects its own officers and has social functions on Lodge premises.
- f. A bowling league not under direct control or supervision of the Lodge but using a name of the Lodge or the Order and having its own By-Laws and operating independently of the Lodge. *See Opinions 02(e) and 13.*
- g. Officers of the Lodge cannot establish a Club.
- h. Organization of a club by Members of several Lodges which is limited to Elk Members and using any name of the Order in connection therewith.
- i. A "Stray Elk Club" made up of Members from several Lodges.
- j. Organization of a choral group which accepts non-Elks as members of the group and allows it to represent the Lodge around the community.

04 An attorney does not violate his obligation by representing a client in a disputed claim against the Lodge.

05 Charges should be preferred against a former Secretary who refuses to deliver to his successor the books and records and other property of the Lodge, and the Grand Forum should be petitioned to issue forthwith a peremptory order that the property be restored to the Lodge. If the Grand Forum order is not complied with the Lodge may use the processes of the civil courts and may

seize its property on writ of replevin, if the whereabouts of said property is known, or, otherwise may apply to the courts for an injunction. If the Grand Forum refuses jurisdiction of the case, or if irreparable damage is likely to result from delay, the Lodge may use the processes of the civil courts at once.

06 Use of the Lodge stationery or facsimile thereof by an Officer of the Lodge advocating support for a candidate is prohibited.

07 Prior consent of the Board of Grand Trustees is not needed when Lodge property is taken by eminent domain.

08 The denial of a right to a Local Lodge to go into the hotel business does not prevent it from erecting club rooms with sleeping apartments, restaurants, bath and similar equipment for the use of its Members and guests.

09 It is a violation for an Exalted Ruler to appoint a committee to join with non-Members to promote a carnival, budget Lodge funds to cover a possible deficit and authorize the name "Elks" or "BPOE" in promoting the affair.

10 The use of "B.P.O.E. of U.S.A." by a Member is a violation.

11 The Board of Trustees (or Board of Directors as may be applicable) may be proceeded against for improperly using Lodge funds to purchase insurance upon the life of the Secretary with the Lodge as beneficiary.

12 It is contrary to policy to entertain charges by one Member against another based on a civil contract unless it can be shown that the Accused used his membership in the Order to induce the Accuser into the contract.

13 A Lodge may organize an "Elks Bowling League" where team members are Elks in good standing. *See Opinions 02(e) and 03(f) for exceptions.*

14 A Lodge may enter into a contract with a recording company to have a group known as "Elks Quartette of _____ Lodge" record songs and provide that the compensation for their services and royalties are paid to the Lodge for such purposes as the membership may authorize. *See Opinion 02(k).*

15 The use of postcards by a Member to solicit votes on his behalf does not invalidate an otherwise valid election. However: if found guilty by a Local Forum, the office would be vacated.

16 The defeat of a longtime Secretary by solicitation of votes for a successor does not invalidate the election even if it could be said that those voting "did not know what was going on," unless a violation of subsection (f) could be proved.

17 It is not a violation of subsection (f) to solicit votes orally, by letter, by printed circular, by a personal and private e-mail, or by a private telephone conversation. *See 3.090, Opinion 22.*

18 Conduct Unbecoming An Elk includes sexual harassment.

19 A non-officer Member does not violate the obligation by receiving compensation as a Lodge employee or independent contractor.

20 Local Lodges, Members and State Associations must use proper care in assuring that electronic communications containing confidential matters of the Order are not readily accessible by non-members of the Order and those Members who are not in good standing in a Lodge of the Order.

• DECISIONS •

01 Refusal of a Member to pay a promissory note given in aid in securing a building fund affords ground for preferring charges against him in the Lodge. (*Grand Forum, Moscow No. 249 vs. general, 1905*)

02 A Member who willfully refuses to pay an obligation to a Lodge, accepted by said Lodge in good faith, subjects himself to charges, trial and punishment. (*Grand Forum, Case No. 4, 1908*)

03 When a Member is charged with Conduct Unbecoming An Elk in that he refuses to pay an accommodation extended by an Elk on the strength of his being an Elk, it must appear first that the accommodation was extended by reason of the applicant

being an Elk and second that the applicant knew the person from whom the accommodation was requested to be an Elk. (*Grand Forum, Case No. 3, 1908*)

04 Loss of a commission for the sale of real estate cannot be made the basis of a claim for damages against a Lodge where no contract enforceable in civil courts has been entered into by the parties to the proposed sale. (*Grand Forum, Case No. 42, 1911*)

05 Expressions of contempt for an applicant cannot be used as conclusive evidence that the Member using them blackballed the applicant for personal reasons or that in fact he cast a blackball. (*Grand Forum, Case No. 65, 1912*)

STATUTES ANNOTATED

06 In the trial of a Member for exposing the nature of his ballot on an application for membership, the testimony should be of a direct, clear and convincing character. (*Grand Forum, Case No. 65, 1912*)

07 The charges of a Violation of Obligation and Conduct Unbecoming An Elk may both be based upon the same incident. (*Grand Forum, Case No. 89, 1913*)

08 A violation of House or Club Rules is "Conduct Unbecoming An Elk" upon which charges may be predicated against the offending Member. (*Grand Forum, Case No. 141, 1915*)

09 A vicious assault by one Member upon another with a dangerous instrument in the social rooms of the Lodge is a Violation of Obligation and subjects the offending Member to expulsion. (*Grand Forum, Case No. 123, 1915*)

10 The Exalted Ruler and members of the Committee being in charge of entertainment are required to acquaint themselves with the character of the proposed entertainment and are responsible for the entertainment which is given and are guilty of Violation of Obligation if they permit an immoral entertainment such as nude dancing and obscene pictures. (*Grand Forum, Case No. 185, 1919*)

11 Membership in our Order is not intended and never will operate as a forfeiture of the right of free speech accorded to every citizen under the Constitution, and there is no provision of our Constitution or Laws or obligations of the Order that precludes one citizen from criticizing the public acts of another who is a public official in the discharge of his official duties. (*Grand Forum, Case No. 199, 1920*)

12 Misrepresentation made in obtaining credit for goods purchased is an offense under Section 9.070. (*Grand Forum, Case No. 226, 1921*)

13 A letter, the writing of which is charged as an offense, not containing anything constituting an offense against the Laws of the Order, cannot be made the basis of a complaint, and the case should be dismissed. (*Grand Forum, Case No. 224, 1921*)

14 In a prosecution for Violation of Obligation by failure to respect the sanctity of a Member's home, it is not necessary to prove intent or that the Accused had knowledge of the family relationship. (*Grand Forum, Case No. 322, 1928*)

15 It is not an offense against the Laws of the Order in and of itself for a Member to institute the necessary proceedings, to have his father legally committed to an insane asylum or fail to visit him while there. (*Grand Forum, Case No. 220, 1921*)

16 Vile, obscene, and insulting language used in an Elks Club is an offense against the Laws of the Order. (*Grand Forum, Case No. 245, 1922*)

17 Fraudulent use of the credit of the Lodge to obtain goods for personal use is a Violation of Obligation as defined by Section 9.070 of the Statutes. (*Grand Forum, Case No. 264, 1923*)

18 A charge of blackballing candidates for no good "Elk" reason and contrary to the obligation of the Accused and contrary to the Laws of the Order cannot be sustained by mere statements of the Accused as to the qualifications of the applicant, as that of itself does not amount to a disclosure in violation of Section 14.030 of the Laws of the Order. (*Grand Forum, Case No. 258, 1923*)

19 Charges that a Member of the Order persisted in a course of conduct, which led to temporary separation of a husband and wife, when supported by competent evidence, justifies a verdict of guilty of "Violation of Obligation" and the imposition of a sentence of suspension for a period of one year. (*Grand Forum, Case No. 261, 1923*)

20 There is no way of preventing a Member in good standing from exercising his right to ballot upon an applicant for membership, but charges should be preferred under Section 14.030 against a Member who declares that he will blackball a candidate. (*Grand Forum, Case No. 258, 1923*)

21 It cannot be said that an appeal to the Accuser for an extension of time within which to meet an obligation couched in this language: "I am an Elk in distress and I would like to have you extend the time of payment on my note which you hold" was commercialism. (*Grand Forum, Case No. 274, 1924*)

22 Neither the Obligation nor the Laws of the Order expressly or by implication require a publisher of a newspaper, who is a Member of the Order, in his profession as a publisher, to suppress an item of real news, as contradistinguished from a fraternal secret concerning the Order in general or a Local Lodge in particular. This is so even though the news item had its source in something said or done by an Elk or an Elks Lodge whether within or without the confines of an Elks Home. (*Grand Forum, Case No. 275, 1924*)

23 The charge of defrauding a Member must not only be made but must be proved and must be based on more than an ordinary debt contracted in a legitimate manner. The criminal side of the Judicial department of the Order cannot be converted into a collection agency for the benefit of any persons whether within or without the Order. (*Grand Forum, Case No. 262, 1924*)

24 An allegation that an Exalted Ruler permitted and participated in the initiation of minors as Members of the Order states an offense upon the theory that the Exalted Ruler had knowledge or the means of knowledge of the facts. (*Grand Forum, Case No. 266, 1924*)

25 An allegation that an Exalted Ruler ordered a Member of the Lodge from the room, using offensive language in so doing, coupled with an allegation that at a meeting of the Lodge the Exalted Ruler heaped abuse upon the same Member, sets forth facts sufficient to constitute an offense. (*Grand Forum, Case No. 266, 1924*)

26 The accusation that the Accused so conducted himself as to acquire the open, notorious and general reputation of being a bootlegger and a professional gambler states an offense against the Order as defined in Grand Lodge Statutes, Section 9.070. (*Grand Forum, Case No. 280, 1924*)

27 An accusation that the Accused was repeatedly intoxicated in the Lodge room and on several occasions under the influence of liquor to such extent that he could not properly perform his duties as Exalted Ruler states an offense. (*Grand Forum, Case No. 266, 1924*)

28 It is Conduct Unbecoming An Elk for one Member of a Lodge to strike another Member while in the Club room or in the Lodge room. (*Grand Forum, Case No. 291, 1925*)

29 The making of false statements against a Member, which, if true, would amount to the commission of a crime supports a verdict of guilty of "Violation of Obligation" and justifies a sentence of expulsion from the Order when the action of the Accused is willful. (*Grand Forum, Case No. 219, 1922 and Case No. 315, 1927*)

30 Refusal to comply with a peremptory direction of the Exalted Ruler, in a matter not required by the obligation, is not a violation of one's obligation. (*Grand Forum, Case No. 323, 1928*)

31 Embezzlement of Lodge funds by the Secretary thereof is a Violation of Obligation of an Elk and is punishable by expulsion from the Order. (*Grand Forum, Case No. 334, 1929*)

32 Obtaining money under false pretenses by one Elk from another, each known to the other as an Elk, and the transaction being based on such relationship, is an offense against the Laws of the Order. (*Grand Forum, Case No. 339, 1930*)

33 Misappropriation of monies and assets of a Lodge constitutes an offense. (*Grand Forum, Case No. 121, 1915*)

34 Any Member who publicly makes threats against his Lodge and his Lodge Officers, and/or who applies to a state court for a search warrant for the sole purpose in each instance of injuring his Lodge and his Lodge Officers, Violates his Obligation as an Elk, and engages in Conduct Unbecoming An Elk, and in such case a sentence of expulsion from the Order is justified. (*Grand Forum, Case No. 378, 1937*)

35 A written complaint was filed in which the Accused was charged with the offense of Violation of his Obligation in that he had declared in substance that he would blackball all candidates proposed during the term of the then Exalted Ruler of the Lodge, irrespective of their qualifications. The Accused was properly found guilty of violating Section 14.030, as well as Violating his Obligation. (*Grand Forum, Case No. 419, 1948*)

36 Under Section 9.070, a charge of "Violation of Obligation" includes every breach of Laws of the Order, as well as of the Obligations prescribed in the Ritual.

Under Section 9.070, if a charge is found to be malicious, the Accused, upon conviction, may be expelled. Under Section 9.070 the offense may be committed with or without willful intent, with a different penalty in each instance, as provided under Section 9.070. It is error to expel a Member under Section 9.070 for making a charge that is not malicious. (*Grand Forum, Case No. 424, 1949*)

37 Evidence showing an unprovoked and unwarranted assault upon a Lodge Officer while the Lodge is in session supports a finding by the Local Forum that the Accused was guilty of both a Violation of his Obligation and Conduct Unbecoming An Elk. (*Grand Forum, Case No. 560, 1974*)

STATUTES ANNOTATED

38 The use of crude and offensive language ending in a fist fight between Members in the hall of a commercial motor hotel at the close of a State Elks Convention is not a personal and private matter as to deprive a Local Forum of the home Lodge of the participants of jurisdiction to find “Conduct Unbecoming An Elk” under Section 9.070, Statutes of the Order. (*Grand Forum, Cases No. 602 & 603, 1979*)

39 In order to sustain a conviction under Section 9.070, the burden is upon the Accuser to prove by clear and convincing evidence that the Accused willfully and maliciously uttered and/or published false and defamatory charges against a Member knowing the same to be false and with intent to injure such Member.

Where the complaint alleges that the Accused willfully and maliciously made unjustifiable and untruthful charges against a Member in a previous Local Forum proceeding, all of the records of the previous proceeding are admissible on the issues of malice and intent.

A verdict of “Not Guilty” in a Local Forum trial is not evidence, ipso facto, that the Accuser in such trial willfully and maliciously made false charges against the Accused; to so hold would have a chilling effect on the right and duty of each Member to file charges when he conscientiously believes an offense against our Order has been committed. (*Grand Forum, Case No. 633, 1982*)

40 Refusal to obey a lawful order of the Exalted Ruler given at a Lodge Session constitutes a Violation of Obligation which if not willful, warrants suspension for a period of one (1) year. (*Grand Forum, Case No. 657, 1983*)

41 Any Member of the Order who knowingly misrepresents or conceals a material fact (commission of a crime) on proposing a candidate for a membership in the Order, upon conviction thereof, is subject to expulsion from the Order. (*Grand Forum, Case No. 459, 1955*)

42 The offense of a second conviction by a Local Forum under Section 9.070(c) is a separate offense that must be alleged in a complaint and proved at trial. (*Grand Forum, Case No. 711, 1986*)

43 To solicit a blackball of an application of a candidate for membership is a Violation of Obligation and of the Laws of the Order, Section 14.030. (*Grand Forum, Case No. 764, 1989*)

44 While charges under certain circumstances might be appropriate under Subsections (h) or (j) of Section 9.070 for “statements” which are unjustified or untruthful, the offense of “Willfully making an unjustifiable or untruthful charge against a Member” brought pursuant to Subsection (a) cannot be sustained where no charges were ever filed in a Complaint in the Local Forum by the Accused. (*Grand Forum, Case No. 773, 1989*)

45 Refusal to obey a lawful order of the Exalted Ruler, given at and during a Lodge Session, constitutes Conduct Unbecoming An Elk and a Violation of Obligation. (*Grand Forum, Case No. 828, 1992*)

46 Misappropriation of funds is a willful Violation of Obligation under Section 9.070(h)l. of the Laws of the Order. (*Grand Forum, Case No. 1038, 2003*)

47 Whether or not supported by the evidence, vitriolic allegations contained in written briefs that are insulting, demeaning or contemptible, may amount to willful violations of Grand Lodge Statute Section 9.070, Conduct Unbecoming An Elk. (*Grand Forum, Case No. 1100, 2005*)

48 Sexual harassment, if adequately defined in the approved House Rules of the Local Lodge, constitutes Conduct Unbecoming an Elk and is actionable under GLS 9.070. (*Grand Forum, Case No. 1159, 2009*)

49 A complaint charging conduct unbecoming an Elk under GLS 9.070(j) provides only for suspension from membership and does not permit the penalty of expulsion. (*Grand Forum, Case No. 1380, 2016*)

50 A Local Forum’s conviction under GLS 9.070(e) (using membership in the Order for political or commercial purposes) will be reversed with prejudice against refileing, where the evidence of the violation is so meager as to constitute a miscarriage of justice. (*Grand Forum, Case No. 1353, 2016*)

STATUTES ANNOTATED

Section 9.080. Any unaffiliated Elk violating Section 14.190 or charged with an offense which could subject him to expulsion from the Order shall be prosecuted in the Lodge with which he was last affiliated. If such Lodge is not in existence, the complaint shall be filed in the Grand Forum. Upon conviction he shall be expelled from the Order.

• OPINIONS •

01 Unaffiliated Elks as described in Section 14.120 are subject to being tried by the Local Forum on charges of violations set forth in the several Sections in this Chapter in the same manner as a Member in good standing.

02 An unaffiliated Elk shall not display any jewelry indicating membership in the Order and any continual practice of doing so subjects such person to charges under the Laws of the Order.

• DECISION •

01 An Elk who is suspended from membership in the Order after due trial becomes an unaffiliated Elk and is not permitted to visit any Elks Lodge during his period of suspension. (*Grand Forum, Case No. 749, 1988*)

Section 9.090. Whenever it shall become known to any Member of the Order that another Member or an unaffiliated Elk has (1) while a Member, been finally convicted of or entered a plea of guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude, or (2) falsely failed to disclose such a previous conviction or entered a plea of guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude on his or her application for membership, it shall be the duty of that Member to provide the information to the Lodge of which the convicted Member is or was a Member.

The Secretary of the Lodge shall thereupon obtain and file in his office a certified transcript of the final judgment or the entry of such pleas and sentence imposed. He shall then immediately give thirty days' notice to the Member by personal service or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record. The Secretary shall report the final conviction or entry of the plea to the Presiding Justice, who shall enter an order expelling the Member from the Order. This order shall be entered in the minutes of the Lodge and shall have the same force and effect as a final decision and sentence of the Local Forum. (*See Exhibit L for Notice of Expulsion sample*)

(NOTE: See Local Forum Rules 2.5.1–2.5.4.)

• OPINIONS •

01 The receipt of a suspended sentence by an unaffiliated Elk or a Member after conviction for a felony does not relieve him from charges under this Section.

in this Section, but must be proceeded against as outlined.

02 A pardoned felon can only be reinstated in the Order under the provisions of Chapter 10.

05 A Member charged with an offense mentioned in Section 9.090, cannot be proceeded against thereunder until he is convicted and sentenced and time for appeal has elapsed. Any action prior thereto is premature and void. This means the Accused is entitled to remain a Member, either affiliated or unaffiliated, until finally convicted and then be expelled under this section. A conviction is not considered final until the period for appeal has expired.

03 The steps outlined in this Section are mandatory upon receipt of information of the conviction of a Member or an unaffiliated Elk for a felony or a misdemeanor involving moral turpitude.

04 A Member is not automatically expelled from the Order upon convictions mentioned

STATUTES ANNOTATED

06 Failure to respond to the provided 30 day notice waives rights as may be available to the Accused.

07 Charges can be brought against a Member under Section 9.090 only when, while being a Member, he was charged with an offense mentioned in Section 9.090 and finally convicted. A person who has been charged with and finally convicted of an offense under Section 9.090, and afterwards pardoned, and subsequently elected to membership without concealment of facts, cannot be charged with any offense against the Order based upon said conviction.

08 Alternative criminal procedures and sentences such as deferred prosecution,

deferred imposition of sentence, and expunging the record, do not bar proceedings under Section 9.060(d).

09 A Member convicted of a felony while a Member (including an unaffiliated Member) is subject to expulsion from the Order following the procedures set forth in Section 9.090. The right to a hearing is subject to Local Forum Rule 2.5.1 and Rule 2.5.4. Expulsion is mandatory once it is determined that the Member in question was in fact convicted within the limits set forth in Section 9.090. However, in regard to new applicants for Membership with already-served prior felony convictions see Opinion 13 to Section 14.010.

• DECISIONS •

01 A conviction of the crime of conspiracy to steal is a conviction for an offense involving moral turpitude, and whether the offense be made a misdemeanor or a felony by the laws of any State, it is none the less a crime, the distinction being purely arbitrary. (*Grand Forum, Case No. 87, 1913*)

02 Proof of the finality of the conviction must be shown in order to sustain a conviction of that offense designated in Subsection (d) of Section 9.060 of the Laws of the Order as "Final conviction in any State or Federal Court of a misdemeanor involving moral turpitude." (*Grand Forum, Case No. 272, 1924*)

03 Where an attorney is disbarred for misappropriation of funds, which he admitted, but there were no Court proceedings, Section 9.090 would not apply. There must be a final conviction by a Court. (*Grand Forum, Case No. 402, 1942*)

04 A plea of guilty to a crime, which on the face of the judgment of conviction shows the charge to be one involving moral turpitude, conclusively establishes an offense against the Laws of the Order and justifies expulsion of the Member from the Order. A certified transcript of the final judgment and sentence imposed upon the Member filed in the office of the Secretary of the Member's Lodge constitutes a sufficient complaint under Section 9.090 of the Laws of the Order and is of itself proof of offense against the Order. (*Grand Forum, Case No. 478, 1961*)

05 A Member's contention that his conviction was unfair or tainted with procedural error is not a defense in expulsion proceedings under Section 9.090. The defect in the criminal proceedings must be resolved at trial or appeal in the City, State or Federal Court having jurisdictions thereof. (*Grand Forum, Cases No. 510 and 511, 1965*)

06 Conviction of a Member for a felony or misdemeanor involving moral turpitude requires expulsion from the Order under Section 9.060 whether that conviction follows a plea of guilty, not guilty or "nolo contendere." (*Grand Forum, Cases No. 510 & 511, 1965*)

07 When a Member of the Order has been convicted of, or entered a plea of Guilty or Nolo Contendere to, a misdemeanor involving Moral Turpitude, and such Member requests a Hearing pursuant to the provisions of Grand Lodge Statute 9.090, and such Hearing is held pursuant to Local Forum Rules 2.5.1, 2.5.2, and 2.5.3, the questions before the Local Forum are limited to determining whether or not said Member has finally been convicted (no Appeal pending), entered a plea of Guilty or Nolo Contendere, and to whether or not the Member so charged is in fact one and the same person who was convicted, or entered a plea of Guilty, or Nolo Contendere to a misdemeanor involving Moral Turpitude. (*Grand Forum, Case No. 906, 1996*)

08 When a hearing is requested under §9.090, it is error to fail to allow the accused person to have a hearing before a Local Forum panel. (*Grand Forum, Case No. 1289, 2013*)

STATUTES ANNOTATED

Section 9.100. Should any Member at a Grand Lodge Session give his voting coupon to another, or vote or attempt to vote upon the coupon of another, it shall be the duty of the Grand Exalted Ruler and the Committee on Elections to cause charges to be preferred against the offending Member and on conviction the penalty shall be expulsion from the Order.

Section 9.110. The Grand Exalted Ruler, upon the consent of a majority of the Board of Grand Trustees, may by written Executive Order specifying the grounds, suspend from Office any Grand Lodge Officer for violation of the Laws of the Order or other good cause.

The Order of suspension shall become effective when served upon such Officer by personal service or by Certified Mail, Return Receipt Requested, in a sealed envelope, postage prepaid, addressed to the person upon whom it is to be served, at his address of record. A copy of such Order shall be sent to the Grand Secretary.

The Order may be appealed to the Grand Forum by filing a written notice with the Grand Secretary within ten (10) days after service of the Order.

(NOTE: See "Exhibit M" to Forum Rules for Form of Notice of Appeal.)

Section 9.120. No Lodge or State Association shall use a list of Members or Lodges of the Order nor knowingly furnish a list to any person or persons, corporation, concern or society for the promotion of any business or commercial enterprise nor shall any Lodge or State Association knowingly authorize or permit the use of a list for any purposes except those permitted or provided by the Laws of the Order. A State Association may participate in a voluntary insurance program that does not conflict with mandatory Grand Lodge insurance programs.

No Lodge shall fail or refuse to prosecute any of its Members for violation of this Section when requested to do so by the Grand Exalted Ruler.

• OPINIONS •

01 Membership information may not be used by a Lodge or State Association for business or commercial purposes.

02 It is not a violation to publish the names of newly initiated Members in the newspaper.

• DECISIONS •

01 A circular bearing the Elks' emblem and calling attention to the business of the sender and soliciting assistance in the promoting of such business, is business literature. (*Grand Forum, Case No. 48-1/2, 1912*)

Section 9.120, which prohibits the use of his connection with the Order for commercial purposes, so far as advertisements and subscriptions are concerned. (*Grand Forum, Case No. 147, 1916*)

02 A photograph showing an Elk Head pin or button and placed on the business literature of a Member of the Order is a violation of Section 9.120 (*Grand Forum, Case No. 48-1/2, 1912*)

04 The willful solicitation by a Member of this Order for votes in a State political contest by sending letters to other Members of the Order, appealing to them as Members of the Order, for support, constitutes a violation of the obligation and requires expulsion. (*Grand Forum, Case No. 509, 1965*)

03 By implication an editor of an Elk periodical is exempt from the provisions of

STATUTES ANNOTATED

Section 9.130. Offenses by a Lodge include:

- (a) Contumacy.
- (b) Contempt of the Courts of the Order.
- (c) Violation of the Constitution or Laws of the Order or of the laws of the community in which the Lodge is situated.
- (d) Conduct on the part of the Members tending to bring the Order into disrepute.
- (e) The use by a Lodge of any name indicating any part of the deer or Elk, except in legitimate work of the Order within the Lodge room.
- (f) Failure to pay per capita fees and assessments levied by the Grand Lodge.
- (g) Failure to hold meetings for three (3) consecutive months.
- (h) Failure to make reports required by Laws of the Order.
- (i) Refusal to proceed to a trial of charges preferred against any Member for an offense.
- (j) Failure to maintain a sound financial condition.
- (k) Failure to promote the programs of the Order.
- (l) Failure to disclose to the Grand Lodge the existence of any separate corporation, trust, or other related legal entity created or maintained by or for the benefit of the Lodge.

Section 9.140. All Lodges are prohibited from giving or being connected with any shows or exhibitions of an immodest or immoral character.

Section 9.150. Gambling in the Lodge or Club rooms or on other Lodge property is prohibited where not permitted by Local, State or Federal Law.

• **OPINION** •

01 Playing for drinks is a practice of selecting an involuntary host and is not gambling which is usually characterized by the exchange of money or tokens used therefore.

• **DECISION** •

01 Where both the Accused and the Accuser were engaged in gambling and one charged the other of playing with marked cards, the Grand Forum, upon appeal of conviction, held that neither the Grand Forum

nor the Local Forum should attempt to determine which violator was playing unfair, and complaint was dismissed. (*Grand Forum, Case No. 426, 1950*)

Section 9.160. The penalties which may be imposed upon a Lodge are:

- (a) Reprimand or censure by the Grand Exalted Ruler.
- (b) Fines.
- (c) The issuance of an Executive Order by the Grand Exalted Ruler which shall:
 1. Impose probation under specified terms and conditions.
 2. Suspend the Lodge with the consent of a majority of the Board of Grand Trustees.
 3. Revoke the Charter of the Lodge with the consent of a majority of the Board of Grand Trustees.

An Executive Order providing for probation, suspension or revocation shall become effective after service upon the Exalted Ruler or any other Officer of the Lodge, except as set forth herein. The Order may be appealed to the Grand Forum by a majority of the Officers of the Lodge filing a written request therefore with the Grand Secretary within ten (10) days after the service of the Executive Order.

The timely filing of a request for appeal shall stay execution of that portion of the Executive Order, if any, that relates to the appointment of Trustees, unless the issuing authority shall show, by a preponderance of the evidence, that immediate execution of such Executive Order is reasonably necessary to preserve the assets of the Lodge.

(NOTE: See "Exhibit M" to Forum Rules for Form of Notice of Appeal.)

• OPINION •

01 When a Lodge has a judgment of foreclosure against it and cannot pay its obligations the Grand Exalted Ruler may exercise one of the several options in this Section.

• DECISIONS •

01 Where no minutes, records or other substantial evidence have been produced to establish the holding of meetings and the election of Officers, and evidence was introduced to indicate the failure to appoint the proper committees required by Statute, the action of the Grand Exalted Ruler in issuing an Executive Order revoking the Charter of the Lodge will be sustained. (*Grand Forum, Case No. 553, 1973*)

02 Where no proof to the contrary is shown and appellant neither appears in person nor is represented, the action of the Grand Exalted Ruler in revoking the Charter of the Lodge must be affirmed. (*Grand Forum, Case No. 555, 1973*)

03 The taking of bankruptcy proceedings by a Lodge of the Order, with its consequent effect upon neighboring Lodges and the Order, and the continued refusal of the Lodge to withdraw its proceedings despite

repeated warnings, is sufficient cause for the issuance of an Executive Order revoking the Charter of such Lodge. (*Grand Forum, Case No. 554, 1973*)

04 Where a Local Lodge amends its By-Laws in such a manner that they are in conflict with the Constitution and Laws of the Order, the action of the Grand Exalted Ruler in revoking the Charter of such Lodge will be sustained, and the contention of the Local Lodge that the Grand Lodge has discriminated by not applying the rules, Laws and Constitutional provisions with equal force, in a similar manner to all Members and Lodges within the Order; that the Laws of the Order are ambiguous and that the Constitution and Laws of the Order are in violation of the Constitution of the United States, state law and general public policy, have been found to be without merit. (*Grand Forum, Case No. 557, 1973*)

STATUTES ANNOTATED

05 Where a Local Lodge adopts a resolution serving notice on the Grand Lodge that it does not intend in the future to be bound by certain provisions of the Constitution and Laws of the Order, gives widespread publicity to its action, and persisted to maintain its position despite repeated warnings by the Grand Lodge, its contention that its action was only for the purpose of protecting certain of its rights in the community in which it was located will not be given credence, and the action of the Grand Exalted Ruler in revoking the Charter of such Lodge must be sustained. (*Grand Forum, Case No. 558, 1973*)

06 Where appellant adopts a resolution in which it declares that it does not intend in the future to be bound by certain provisions of the Constitution and Laws of the Order, the action of the Grand Exalted Ruler in revoking the Charter of such Lodge will be sustained. The defenses that the Grand Lodge has not sufficiently emphasized the requirements of such sections, that it was guilty of laches in not more promptly enforcing the compliance with the provisions of the Constitution and Laws of the Order, that the requirements for membership in the Order are contrary to federal and state laws and to public policy, and that the membership of Local Lodges are insufficiently informed as to the Laws of the Order, are without merit, and the action of the Grand Exalted Ruler must be sustained. (*Grand Forum, Case No. 559, 1973*)

07 The action of the Grand Exalted Ruler in revoking the Charter of a Local Lodge is discretionary and will be affirmed by the Grand Forum in the absence of a showing that it was not factually justified. (*Grand Forum, Case No. 567, 1975*)

08 An appeal from an Executive Order revoking a Lodge Charter must be dismissed

if a majority of the Officers of the Lodge have not signed a written request for an appeal. (*Grand Forum, Case No. 1208, 2010*)

09 The decision of a Grand Exalted Ruler to revoke the charter of a Local Lodge will not be reversed unless clearly wrong. (*Grand Forum, Case No. 765, 1989*)

10 The powers given to the Grand Exalted Ruler are broad. In addition to the express powers provided in the Grand Lodge Constitution and Statutes, he also has implied powers that are necessary or incidental to make the express powers effective.

Section 9.160 GLS, which allows the issuance of an Executive Order by the Grand Exalted Ruler imposing probation under specified terms and conditions, includes the power to appoint a Special Operating Committee to assume the duties and responsibilities of club management. (*Grand Forum, Case No. 887, 1995*)

11 A Notice to Appeal an Executive Order of the Grand Exalted Ruler revoking the Charter of a Lodge pursuant to Section 9.160 is invalid when executed by Officers who have not been properly Installed as required by Section 12.010 of the Laws of the Order. (*Grand Forum, Case No. 1063, 2004*)

12 An Executive Order issued pursuant to Section 9.160 is not valid when it appoints a "steering committee" without placing the Lodge on probation. (*Grand Forum, Case No. 1230, 2012*)

13 Under GLS 9.160, a Lodge's appeal of an Executive Order placing the Lodge on probation must be filed with the Grand Secretary within 10 days after service of the Order on the Exalted Ruler or any Lodge officer and must include a \$1,000.00 deposit (GLS 7.070). (*Grand Forum, Case No. 1388, 2016*)

Section 9.170. Upon the final adjudication by the Courts of the Order, the revocation or suspension of a Dispensation or Charter, or the surrender of a Charter under the Laws of the Order shall be conclusive upon the Lodge and its Members. All property and assets of a Local Lodge, real and personal, are held in trust and are subject to the provisions of this Section, regardless of when the Lodge was organized. Property of the Lodge necessary to conduct the ceremonies prescribed by the Ritual, and its Dispensation or Charter, membership lists, books, papers, jewels, emblems, regalia and effects, must be surrendered on demand by the person or persons having custody thereof to the Grand Lodge, its agent or Trustees. Any Officer or Member, having custody of property, who shall refuse or fail to surrender same on demand, shall be expelled from the Order.

Upon such final adjudication, the Grand Exalted Ruler may appoint three Trustees who shall be authorized and empowered to take all necessary actions and execute all required instruments to receive, hold, conserve, manage, sell or encumber, mortgage, borrow against the Lodge property, as they may deem necessary, retaining the proceeds therefrom, until such time as said Lodge may be reinstated or a new Charter granted in the same community.

If the Lodge is reinstated or a new Charter is granted for a Lodge or Lodges with jurisdiction including a portion of the same jurisdiction of the former Lodge, said Trustees, upon order of the Grand Exalted Ruler, shall transfer and deliver the title to all assets of the Lodge to the Lodge so reinstated or to the new Lodge or Lodges to which a Charter or Charters have been granted, in such proportions as determined by a majority of the Board of Grand Trustees with the approval of the Grand Exalted Ruler, and the three Trustees shall execute and deliver any and all necessary and proper deeds and instruments with the approval of the Grand Exalted Ruler endorsed thereon to vest full and complete title in the Lodge entitled thereto.

- (a)* Trustees appointed by the Grand Exalted Ruler must be Members of the Order. If a vacancy occurs, the remaining Trustees shall notify the Board of Grand Trustees and the Grand Exalted Ruler who shall appoint a successor Trustee. Trustees shall furnish an adequate bond and secure insurance coverage to protect the property, the Order and the Lodge under such terms as may be fixed by the Board of Grand Trustees. The premiums thereon shall be paid from the income or corpus of the Trust. All disbursements from Trust funds shall be made by check signed by at least two (2) Trustees.
- (b)* The appointed Trustees shall list, inventory and appraise all property and ascertain and list all debts of the Lodge. Copies of all inventories, lists and appraisal shall be filed with the Board of Grand Trustees and the Grand Secretary. The appointed Trustees shall make a report and account of their actions at least once each year to the Board of Grand Trustees with copy thereof to the Grand Secretary.
- (c)* The appointed Trustees shall convert to cash any property necessary to pay valid debts of the Lodge and written permission to sell or lease said real estate shall be obtained from the Board of Grand Trustees, and the net proceeds shall be invested for the benefit of the trust, as provided by local laws relating to investment of trust funds, and shall be held until said Lodge be reinstated or a new Lodge or Lodges be organized in the same jurisdiction. Provided, however, and subject to the approval of the Grand Exalted Ruler, the appointed Trustees may annually distribute to the State Association in which the Lodge in question was located, part or all of the net earnings of the Trust to be restricted to the sole purpose of paying expenses incurred in connection with the effort to form a new Lodge or Lodges

STATUTES ANNOTATED

in the same state. Such distribution shall be in an amount that will not diminish the corpus or principal of the Trust.

If the net assets total \$10,000.00 or less, said amount shall immediately be transferred to one or more tax exempt charitable organizations of the State Association in which the Lodge was located for use by that State Association for its major project or other exempt purposes within the State Association and within the meaning of Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future tax code.

(d) At any time after five (5) years from the date of the creation of the trust, when it appears to the Grand Exalted Ruler and the State Sponsor that the Lodge in question is not going to be reinstated, or a new Lodge or Lodges are not likely to be formed in the same jurisdiction, the Grand Exalted Ruler shall order the remaining trust assets conveyed to either:

1) upon the recommendation of the State Sponsor either:

a) one or more tax-exempt charitable organizations of the State Association in which the Lodge was located for use by that State Association for its major project or other exempt purposes within the State Association and within the meaning of Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future tax code, *OR*:

b) one half of the assets to an investment fund for that State's Association and one half of the assets to one or more tax-exempt charitable organizations of the State Association in which the Lodge was located for use by that State Association for its major project or other exempt purposes within the State Association and within the meaning of Section 501(c)(3) of the Internal Revenue Code or the corresponding section of any future tax code, *OR*:

2) a new Lodge within the same State or Territory upon recommendation of the State Sponsor.

If prior to the expiration of the five (5) year period a new Lodge has been instituted in the same jurisdiction as the former Lodge, or the new Lodge has previously merged with another Lodge, the assets held by the Trustees may be conveyed by order of the Grand Exalted Ruler to the merged Lodge.

(e) When the same members are Trustees for two or more Lodges in the same State or Territory, said Trustees may manage the assets of the defunct Lodges in a single Trust, provided that a separate record shall be kept of the assets and income for each defunct Lodge.

STATUTES ANNOTATED

• OPINIONS •

01 Upon revocation, suspension, or voluntary surrender of a Charter, all Lodge assets and those of all Lodge-related entities must be surrendered to the Trustees or agent appointed by the Grand Exalted Ruler. At the time a Lodge becomes Chartered, they expressly agree to abide by and act in accordance with the Constitution, Statutes, and Rules of the Order, including disposition of assets under Section 9.170. A Lodge exists pursuant to Grand Lodge Charter and all property and assets it acquires, real and personal, are held in constructive trust.

02 The Trustees appointed hereunder must recognize any previous commitments made by the Lodge regarding its property.

03 Lodge paraphernalia, dispensation, charter, books, papers and effects must be surrendered to the Grand Secretary as the Grand Lodge agent.

04 Application fees of persons not initiated prior to surrender of a Charter should be returned.

05 Both incorporated and unincorporated Lodges are affected by this Section.

06 The Order is not bound by any contracts regarding its property which have been entered into by a Lodge.

07 The provisions of this Section apply also to any separate corporations of Lodges whose Charters are revoked, suspended or surrendered, regardless of the dates of their incorporations and/or the age of the Lodge involved.

See also 16.030.

08 A State Association investment fund under this Section may be used for supporting the activities of the State Association, as well as Local Lodges, through loans or capital improvements as may be reasonable and prudent and with adequate security.

• DECISION •

01 Assets maintained by Trustees appointed under Section 9.170 cannot be distributed to an appropriate State Major Project until such time as the Grand Exalted Ruler determines the Lodge in question is not going to be reinstated, or a new Lodge or Lodges are not likely to be formed in the same jurisdiction. (Grand Forum, Case No. 793, 1990)

Section 9.180. After four years from the date of initiation, affiliation or reinstatement of any person, no charge shall be preferred attacking the membership of such person in the Lodge. A Member's name shall not be stricken from the roll on the ground of any irregularity or defect in any of the proceedings relating to his application for or election to membership. This Section shall not apply to charges based upon constitutional qualifications for membership nor to charges based upon false statements made upon an application for membership.

• OPINION •

01 A convicted felon who has not had his citizenship restored is not eligible to plead the four year statute of limitations.

STATUTES ANNOTATED

Section 9.190. No charge or charges shall be prosecuted after four years shall have elapsed from the date of the commission of such alleged offense under the Laws of the Order, or after four years from the date of having plead guilty, entered a plea of nolo contendere or been finally convicted of a felony (*Section 1.030*) or a misdemeanor involving moral turpitude (*Section 1.110*). Provided, however, this Section shall not apply to charges based upon false statements made upon an application for membership, nor to constitutional qualifications for membership.

• OPINIONS •

01 Where a Member over four years before entered a plea of “nolo contendere” to an indictment charging him with a crime involving moral turpitude, was sentenced and sentence suspended and prior to entry of such plea tendered his resignation to his Lodge which took no action thereupon or other action as specified in Section 9.090 and failed to drop such Member from its rolls for non-payment of dues, such Member, upon pay-

ment of his delinquent dues, is entitled to full membership. Action under Section 9.090 must be instituted before the lapse of four years from the date of the final conviction of such offense.

02 A final conviction of a felony which was not acted upon by the Presiding Justice for more than four years thereafter cannot be the basis for charges under 9.060(d) or 9.090.

• DECISION •

01 This section bars the charge of a second conviction by a Local Forum when four years have elapsed from the date of the first conviction. (*Grand Forum, Case No. 711, 1986*)

Section 9.200. Any Lodge which shall refuse or neglect, for fifteen days after it is its duty to act, to perform any duty imposed by the provisions of Section 14.020 shall be subject to fine of not less than twenty-five nor more than one hundred dollars to be imposed by the Grand Exalted Ruler.

Section 9.210. All Executive Orders provided for in Sections 9.010, 9.020, 9.030, 9.040, 9.110 and 9.160 shall be final unless timely appealed as provided therein. The decision of the Grand Forum on the appeal shall be final.

Section 9.300. No Member shall simultaneously occupy multiple positions in a Lodge, State Association, or Grand Lodge whether as a paid employee or otherwise, when the relationship between the positions is such as to give rise to an apparent, potential or actual conflict of interest.

A Member is expected to act in the best interest of the Order and their Lodge at all times. A Member shall disclose a personal or family interest in a proposed matter prior to consideration of the matter. Members shall recuse themselves from discussions or votes that involve matters in which the Member or their family has a financial interest.

STATUTES ANNOTATED

• OPINIONS •

01 No Member who has been installed as a Trustee of a local Lodge may hold the office of, or perform the role of Treasurer. The prohibition against holding multiple offices cannot be avoided by declining formal installation into a position if a Member is performing the role of that second office.

02 It shall be considered a *per se* violation of the rule against a Member holding multiple offices where one Member holds, or performs two roles, within a Lodge or State Association, that eliminates a check and balance established to protect the financial security of that body.

Section 9.400. For the purpose of any civil action brought by Members, Lodges or State Associations, by accepting membership into the Benevolent and Protective Order of Elks of the United States of America, and by accepting the benefits derived from such membership, such party specifically waives the right to challenge the force and effect of any Grand Lodge Statute, including without limitation, Sections 9.170, 16.030 and 16.050.

For the purpose of any civil action brought by any Member, Lodge or State Association challenging the effect of an Executive Order, such Executive Order shall be presumed correct and may only be challenged on the grounds of abuse of discretion, which grounds must be proven beyond a reasonable doubt.

In any action brought by the Benevolent and Protective Order of Elks of the United States of America against any Member, Lodge, or State Association, such Member, Lodge or State Association waives all claims and counterclaims of set-off, and further agrees that in any such action, upon entry of judgment in favor of the Benevolent and Protective Order of Elks of the United States of America, the offending Member, Lodge or State Association shall be responsible for reimbursement of all costs and reasonable attorney fees incurred.

— CHAPTER 10 —
PARDONS

Section 10.010. The Chief Justice of the Grand Forum shall be Chairman of the Board of Pardon Commissioners.

Section 10.020. The Board of Pardon Commissioners shall meet annually at the Grand Lodge Session and as the Grand Exalted Ruler may direct.

Section 10.030. A person who has been expelled from the Order can only be restored to membership by pardon of the Grand Exalted Ruler.

• OPINIONS •

01 An expelled Member shall not thereafter be regarded as an Elk and cannot be issued a transfer dimit, a certificate of release or voted into the Lodge. He must be granted a pardon by the Grand Exalted Ruler which restores him to membership upon payment of appropriate dues.

03 Until a full pardon is granted by civil authority or a sentence on a felony be fully served, one expelled from membership is not eligible to pardon under the provisions of Section 10.030. Being on parole is insufficient to qualify him for pardon under said Statute.

02 A Secretary or a Lodge may not act to reinstate an expelled Member.

04 Any pardon granted hereunder entitles the Member so pardoned to seek reinstatement or a Certificate of Release.

Section 10.040. To obtain a pardon, or commutation, the person expelled, or suspended, from the Order, shall at least thirty (30) days prior to making an application for a pardon, or commutation, serve a written notice upon the Lodge of which he was a Member, for a pardon, or for a commutation, and the Chairman of the Board of Pardon Commissioners.

• OPINION •

01 An expelled Member still on probation, under sentence or on parole is not eligible to seek a pardon.

Section 10.041. Notice of the request for a commutation, or pardon, shall be reported to the Lodge at its next regular meeting. The Exalted Ruler shall order a hearing on the request at a regular meeting, of the Lodge, to be held not later than thirty (30) days thereafter. Notice, in writing, of the hearing, on the request, shall be given by the Secretary, to the membership, not less than ten (10) days prior to the date specified therefore.

• OPINION •

01 A majority vote taken by a Lodge in favor of or opposed to the pardon of an expelled Member is mandatory, but is advisory only. The result of a vote must be sent to the Pardon Commission.

The requirement to hold a hearing is satisfied by the entertaining of a motion to support a pardon application.

Section 10.050. Action taken by the Lodge upon receiving notice that a pardon, or commutation, is to be filed, should be communicated to the Board of Pardon Commissioners prior to the time of its scheduled hearing. Action taken by the Lodge shall not be binding on the Board.

Section 10.060. The Chairman of the Board of Pardon Commissioners, upon receiving an application for a pardon, or commutation, shall notify the applicant and the Lodge of which he was a Member the date set for a hearing on such application. The Lodge and the applicant shall have an opportunity to be heard.

Section 10.070. No application for pardon, or commutation, shall be considered until the expiration of two (2) years from the denial of a previous application.

Section 10.080. The Board of Pardon Commissioners shall report its recommendations to the Grand Exalted Ruler. The Board of Pardon Commissioners shall deposit its records with the Grand Secretary within 30 days of the conclusion of the Grand Lodge Session.

— CHAPTER 11 —

DISPENSATIONS AND CHARTERS

Section 11.010. The Grand Exalted Ruler may grant a Dispensation for a proposed Lodge upon a petition therefor, on a form furnished by the Grand Secretary, signed by not less than 50 persons who are residents in the jurisdiction of the proposed Lodge, and who are Members or are eligible to membership in the Order.

The Organization Committee shall be composed of not less than three Members of the Order selected by the Sponsor of the State within which the proposed Lodge is to be located. The Organization Committee shall have charge of all preliminary proceedings. The Committee shall select from its Members a Chairman, a Secretary and a Treasurer. The Chairman shall call and preside at meetings and generally supervise the preparation and presentation of the petition for Dispensation. The Secretary shall keep accurate minutes of meetings of the Committee and of the ballots taken on applications. The Committee Treasurer shall receive and retain money collected from petitioners and transfer it to the Treasurer of the Lodge after it is instituted. If the Lodge is not organized in due course, the Committee Treasurer shall return the money to the petitioners.

Each petitioner not a Member shall sign and submit to the Organization Committee a regular application for membership with the full initiation fee fixed by the Organization Committee, an amount not less than \$25.00. Members in good standing in the Order who sign the petition shall submit Transfer Dimits and pay the affiliation fee fixed by the Committee. The Committee shall ballot on each application and any applicant who shall receive a number of white balls at least equal to two-thirds of the votes cast shall be declared elected and eligible to membership.

The petition and a certified copy of the minutes of the Organization Committee, including its record of ballots on application, shall then be presented to the District Deputy Grand Exalted Ruler designated by the Grand Exalted Ruler, who shall fully investigate and satisfy himself as to the regularity of the proceedings and the qualifications of each petitioner, and shall promptly prepare a written report. The District Deputy Grand Exalted Ruler shall submit all of the foregoing to the Sponsor assigned to the State in which the proposed new Lodge is located who shall indicate his approval or disapproval in writing and transmit the entire file to the Grand Secretary for submission to the Grand Exalted Ruler for his approval.

Upon being granted a Dispensation, the Organization Committee shall be enlarged to include all elected Members of the proposed Lodge. The Committee shall prepare and submit to the Committee on Judiciary a proposed set of By-Laws. Upon approval the same shall become the original By-Laws of the Lodge.

• OPINIONS •

01 The Grand Forum has no jurisdiction to review the action of the Grand Exalted Ruler in granting a dispensation for a new Lodge.

02 The Grand Exalted Ruler may grant a dispensation for a new Lodge despite adverse reports from a State Association or another Lodge.

03 A Lodge can only be instituted in the United States of America or its possessions.

04 A Lodge granted a dispensation acquires jurisdiction over the same territory as it will have when granted a Charter.

05 The initiation fee of a Lodge under dispensation may only be changed by By-Law amendment approved by the Committee on Judiciary.

STATUTES ANNOTATED

Section 11.020. The presence of at least three Members in good standing shall be necessary to institute a Lodge under Dispensation. One shall be in possession of the Dispensation.

After the institution of a Lodge a pro rata per capita fee shall be paid to the Grand Secretary based on the number of full months remaining in the Lodge year.

• OPINION •

01 Neither a Member transferring to a newly instituted Lodge nor the new Lodge is required to pay a second per capita tax for the same year as that previously paid by the transferee.

Section 11.030. The Dispensation shall contain three of the names of those who signed the original petition. The Dispensation shall expire at the next regular Grand Lodge Session, unless the Grand Lodge shall vote to continue the same.

Section 11.040. When a Lodge is to be instituted, it shall be the duty of the Grand Secretary to furnish to the proper District Deputy Grand Exalted Ruler all the supplies, books, blanks, Rituals, regalia, etc., necessary for the proper organization of the Lodge, the transaction of its business, and the performance of the work prescribed by the Ritual. These supplies shall be paid for by the Lodge.

• OPINION •

01 A Lodge cannot be compelled to have the printing of its By-Laws done by the Grand Secretary.

Section 11.050. Immediately after institution of a Lodge under Dispensation, upon receipt of the properly completed District Deputy's Report of Institution accompanied by the pro rata per capita fee, and upon satisfactory completion of all applicable statutory provisions for a Lodge of the Order, the Grand Secretary with the favorable recommendation of the Sponsor assigned to the state in which the Lodge is located shall submit a request to the Grand Exalted Ruler on the Lodge's behalf for issuance of a Charter. If approved by the Grand Exalted Ruler, the Charter for the Lodge, bearing the same date as that on which the Lodge was instituted shall be issued by the Grand Secretary.

• OPINION •

01 It is not necessary that a Past Exalted Ruler be elected Exalted Ruler of a newly-instituted Lodge.

STATUTES ANNOTATED

Section 11.060. Whenever the Boards by direction of two or more Lodges whose municipal or jurisdictional boundaries are contiguous adopt resolutions approving a merger and consolidation of said Lodges, certified copies of each resolution shall be forwarded to the Exalted Ruler of each Lodge. The Exalted Ruler of each Lodge shall submit the resolutions at a regular Lodge meeting within twenty (20) days from receipt thereof. At the meeting the Exalted Ruler shall announce that a vote on the proposed consolidation shall be taken at a designated regular meeting not earlier than thirty (30) days, nor more than sixty (60) days hence. The Secretary shall give written notice to each Member at least fifteen (15) days in advance of the date of the voting on the proposition. If, on the date set, the proposition to consolidate is approved by two-thirds of the Members present the Secretary shall notify the Grand Exalted Ruler and the Sponsor(s) of the results of the vote.

After endorsement by the Grand Exalted Ruler of the resolution of consolidation, the Board of Grand Trustees shall review the proceedings, and if it approves, the property of the Lodge or Lodges surrendering a Charter shall become the property of the Lodge retaining its Charter.

The Members of the Lodge(s) surrendering a Charter, who are in good standing at the time, shall be received in the same status by the Lodge with which consolidation is made, and from the date of the consolidation they shall pay appropriate annual dues as may be provided for in the By-Laws of the Lodge whose Charter is retained.

The Members of the Lodge(s) surrendering a Charter whose names are on the rolls of such Lodge but who are not in good standing at the time of the consolidation may be restored to good standing in the consolidated Lodge in the same manner as if consolidation had not been made.

In the event that the Lodges are surrendering their Charters with the intent of consolidating and forming a new Lodge, approval of the surrender of the Charter shall require a two-thirds (2/3) vote of the Members present. The provisions of Section 11.100 shall not apply in this instance.

• OPINION •

01 Members of one Lodge which merges into another Lodge must be assigned new membership numbers in the surviving Lodge. Retaining their former membership numbers would create a separate class, branch or degree of membership and violates our Constitution.

Section 11.070. Whenever a Lodge is granted a Dispensation or a Charter in the city or town in which a Lodge formerly existed, the Grand Exalted Ruler with the consent of the Grand Lodge may substitute the number by which the Lodge otherwise would be designated with the number of the Lodge which formerly existed in the city or town.

Section 11.080. The Charter Members of a Lodge are (1) the affiliating Members of the Order present at the institution, (2) the candidates initiated at such institution and (3) those present at the institution who have presented Certificates of Release, Certificates of Status and Absolute Dimits. All must sign the Constitution and By-Laws of the new Lodge.

Section 11.090. Lodges under Dispensation shall upon their institution elect Officers to hold office until the next regular election and installation except that the Trustees shall be elected as required in Section 15.010.

• OPINION •

01 A New Lodge instituted after January 1 and before March 31 may elect Officers to serve until the second succeeding April 1.

Section 11.100. A Lodge desiring to voluntarily surrender its Charter or Dispensation may request the Grand Exalted Ruler to accept the surrender after the proposition to surrender receives a three-fourths vote of those present at any regular Lodge meeting. At least ten (10) days' written notice containing full details of the proposed action shall be given to the entire membership prior to the meeting. The Grand Exalted Ruler may then order the surrender and cancellation of the Charter or Dispensation and report the same to the Grand Lodge.

Grand Lodge standing is retained by a Member of a dissolved Lodge, provided said Member shall apply for membership and be accepted in a Lodge of proper jurisdiction.

Section 11.110. In the event a Lodge's Charter has been lost or destroyed, the Lodge, by written notice of the Exalted Ruler and the Secretary to the Grand Secretary, shall request issuance of a duplicate Charter. The notice shall detail the circumstances of the loss, and be accompanied by a fee of \$120 (*this fee shall be waived if loss of the Charter was caused by a natural disaster*) and a letter of verification from the District Deputy attesting to the former Charter's loss. These provisions shall not apply to Dispensations, which are temporary documents which do not require display or preservation by Lodges after Charters have been issued, nor to the Charters of Lodges whose name or number has been officially changed by Grand Lodge action.

Section 11.200. In order for Elks in good standing of a dissolved Lodge to affiliate with a different Lodge and remain on the active rolls during their transition, there is hereby chartered a Virtual Lodge. This will end the current process resulting in Members of a dissolved Lodge being automatically dropped from the rolls on March 31st.

STATUTES ANNOTATED

Section 11.210. Upon dissolution or revocation of a Lodge Charter, the Members of said Lodge shall automatically become Members of this Virtual Lodge. The Member may at any time request a Transfer Dimit in order to affiliate with any Lodge of the Order.

Section 11.220. Annual membership in the Virtual Lodge may be renewed by the Member for a period not to exceed eighteen (18) months, unless extended by Executive Order issued by the Grand Exalted Ruler.

Section 11.230. Virtual Lodge Members shall pay annual dues as may be set by the Board of Grand Trustees. In addition, each Virtual Lodge Member shall pay, on or before April 1 of each year, the following: *(a)* all Grand Lodge per capita fees and assessments; *(b)* State Association dues of the State of their former Lodge. The Virtual Lodge Member shall pay dues electronically or by other means as may be prescribed by the Board of Grand Trustees.

Section 11.240. The Grand Secretary shall be the Secretary of the Virtual Lodge.

Section 11.250. Virtual Lodge Members shall be termed an Elk and so long as they are in good standing, have all the rights of a visiting Elk.

Section 11.260. In the event Local Forum charges are initiated against a Virtual Lodge Member, said Member shall be treated as an unaffiliated Member of the Lodge initiating such charges.

Section 11.270. Any club disciplinary proceedings initiated against a Virtual Lodge Member shall be governed by the procedures set forth in Section 16.041. Any discipline imposed under that Section shall be applicable to and enforced by all Lodges of the Order.

STATUTES ANNOTATED

— CHAPTER 12 —
LOCAL LODGE OFFICERS

Section 12.010. The Officers shall be installed at a regular or special meeting of the Lodge to be held after March 15 and not later than April 15 after election provided that the installation of Officers prior to April 1 shall be effective as of April 1. Before his installation, the Exalted Ruler-elect shall appoint an Esquire, a Chaplain, an Inner Guard, a Tiler, an Organist, and a Vocalist, if an Organist or Vocalist is available, to be installed with the elected Officers of the Lodge and to serve for the term of one year.

Should the Grand Exalted Ruler or the District Deputy fail to be present or name someone to act for him, the Lodge may designate any past or retiring Exalted Ruler to install the Officers. In the discretion of the Lodge, the ceremony of installation of Officers may be public.

Should any elected Officer fail, without good cause, to present himself for installation at the time set for installation or at a regular meeting of the Lodge within thirty (30) days thereafter, the Exalted Ruler shall declare the Office vacant.

• OPINIONS •

01 An Officer must be installed in order to hold the title to his Office. Reelection to an Office does not dispense with the requirement for installation. An Officer cannot be installed by proxy. Until successors are installed, present Officers retain their Offices.

02 A Member elected to fill a vacant Office may be installed on the night of his election or at the next regular meeting. *See Section 12.150.*

03 An Exalted Ruler shall declare an Office vacant if the Member elected does not present himself, without good cause, for installation within 30 days. No Lodge action is needed.

04 Section 12.010 and 12.140 are not inconsistent, but deal with separate matters. Section 12.140 covers non-attendance at meetings after installation, and Section 12.010 covers failure to present oneself for installation.

05 The Chaplain, Inner Guard, Esquire,

Tiler, Organist, and Vocalist are personal appointees of the Exalted Ruler and may be removed by him; any procedure which purports to limit this power is improper and illegal.

06 The Officers of a new Lodge instituted between January 1 and March 31 may hold Office until the second succeeding April 1 and until their successors are installed.

07 Where a Member has been elected Exalted Ruler, but has not appeared for installation, and it is apparent that he will not return for some time, the Lodge may take steps to declare the Office vacant under the provisions of Section 12.140. A special election may then be held under the provisions of Section 12.150. The Offices of Exalted Ruler, Secretary, Treasurer and Trustee require constant availability of the holders thereof.

08 Only the Lodge can obligate the Lodge. That must be done by proper resolution and carried into effect by proper Officers.

STATUTES ANNOTATED

Section 12.020. The Exalted Ruler is the Executive Officer of the Lodge and shall:

- (a) Preside at all meetings, except as provided in Section 15.010.
- (b) Appoint all Committees provided for in Section 13.020, designating the Chairman thereof.
- (c) Appoint an acting elective Officer to serve in the stead of an incapacitated or disabled holder of the Office, subject to confirmation by the Lodge at its next regular meeting.
- (d) Appoint an acting Officer to serve in place of an Officer called to active Armed Forces duty as defined in Section 12.140. Such acting Officer would be deemed a Lodge Officer for all purposes during such appointment.
- (e) Attend all District Deputy Clinics unless excused for good cause.
- (f) Enforce the Laws of the Order.
- (g) Perform other duties required by the Laws of the Order or the By-Laws of the Lodge.
- (h) In an unincorporated Lodge, be an ex-officio non-voting member of the Board of Trustees (or Board of Directors as may be applicable).

• OPINIONS •

01 Until an Exalted Ruler completes his term of Office after attending a Grand Lodge Session as the Lodge representative he is a pro-tempore member of the Grand Lodge and must become a Past Exalted Ruler to be a continuing member.

02 The Exalted Ruler has no power to suspend a Member for violation of a Law of the Order. A complaint should be filed and a trial had before the Local Forum.

03 Appointments to committees are the sole right of an Exalted Ruler, who may request advice and assistance in the selections, but the Lodge cannot override his selections. He may remove any Committee Member with or without cause.

04 The preparation and publication of a letter by the Exalted Ruler purporting to be a committee report when in fact it is not and is

intended to deceive and mislead the Members constitutes a Violation of his Obligation.

05 The Exalted Ruler cannot appoint a committee to handle all of the committee work of the Lodge.

06 An Exalted Ruler's power of appointment is confined strictly to Members of his own Lodge except the appointment of a Presiding Justice of the Local Forum and a Mediator under Section 13.020.

07 The Exalted Ruler has the exclusive right to appoint all committees. The Lodge has no right to discharge a statutory committee appointed by the Exalted Ruler. The right to appoint his own committees cannot be exercised by the Lodge. This right cannot be changed by By-Law.

• DECISIONS •

01 The Exalted Ruler has the power of removing a Member from a Committee or changing the membership of any Committee appointed by him at any time. (*Grand Forum, Case No. 306, 1927*)

02 Absent a valid excuse, "obtained in advance," it is mandatory that Officers, who are required by Statute, attend the District Deputy Clinics. (*Grand Forum, Case No. 1107, 2006*)

STATUTES ANNOTATED

Section 12.030. The Exalted Ruler of the Lodge may suspend any Member from that meeting for conduct unworthy of a Member of the Order.

• DECISION •

01 When a Member persists in disruptive conduct during a Lodge meeting, Section 12.030 does not require a formal motion and open debate before the Exalted Ruler may require that Member to leave the Lodge room. (*Grand Forum, Case No. 560, 1973*)

Section 12.040. The Esteemed Leading Knight, the Esteemed Loyal Knight and the Esteemed Lecturing Knight shall assist the Exalted Ruler in the performance of his duties and officiate for him in his absence, in the order of their rank. They shall be invested at such times with all his powers and prerogatives. They shall perform the other duties as may be required of them by the Laws of the Order and the By-Laws of their Lodge. The Leading Knight shall attend all District Deputy Clinics unless excused for good cause by the District Deputy.

• DECISION •

01 Absent a valid excuse, “obtained in advance,” it is mandatory that Officers, who are required by Statute, attend the District Deputy Clinics. (*Grand Forum, Case No. 1107, 2006*)

Section 12.050. The Secretary of the Lodge shall:

- (a) Keep accurate minutes of all meetings.
- (b) Maintain accounts between the Lodge and its Members.
- (c) Assign a number to each Member which is shown on his membership card.
- (d) Maintain a current mailing list of all Members consistent with the Chicago Lodge Membership System (CLMS) and as directed by the Grand Secretary.
- (e) Receive all monies due the Lodge and pay them over to the Treasurer.
- (f) Inform applicants for membership of their acceptance or rejection.
- (g) Notify all committee appointees.
- (h) Prepare the Annual Report to the Grand Lodge.
- (i) Prepare a period membership report on forms furnished by the Grand Secretary as of the 1st day of November of each year. The report is due on or before the 5th day of November of that same year.
- (j) Report all expulsions and suspensions to the Grand Secretary.
- (k) Read and answer all correspondence of the Lodge subject to the approval of the Exalted Ruler.
- (l) Give bond of at least \$5,000 or in a greater amount as may be provided in the By-Laws.
- (m) Present a written report of the transactions of his office to the Lodge at the first session in April and October.
- (n) Receive compensation as fixed by the By-Laws.

STATUTES ANNOTATED

(o) Perform all duties required by the Local Forum.

(p) Attend all District Deputy Clinics unless excused for good cause.

(q) Collect all records, materials, other information and personal property of the Lodge as described in Section 12.180.

(NOTE: See also 13.040(k), 16.010 and 16.110.)

• OPINIONS •

01 A Lodge Secretary is a constitutional Officer with duties and powers set forth in the Laws of the Order and his or her salary set forth in the Lodge By-Laws. The Secretary is responsible to the Lodge for the performance of the duties of his or her Office, and is under the direction of the Lodge but not the Lodge Officers. The Lodge may assign the Secretary other duties, establish hours of duty and employ personnel to assist him or her in keeping records, but it cannot abolish the Office.

02 The Secretary is obliged to take an obligation to perform properly the duties of his Office. If these duties are not properly discharged he is subject to charges which may result in the loss of his membership in the Order. This responsibility is personal. Neither the Secretary nor the Local Lodge can shift it to another. The Secretary remains responsible for the proper performance of his official duties although circumstances may require the actual work to be done by another. It would be inconsistent and unconscionable to permit a Local Lodge to force the Secretary to entrust any part of the duties of his Office to one who is not of his own selection. This cannot be done directly or indirectly. If the burden of the duties of the Secretary's Office is great enough to require it, the Lodge may authorize an appropriation to cover the salaries of clerks to be selected by the Secretary and to be subordinate to him.

03 Except as required by state law, a membership list is private and confidential. Membership information may be provided to a Member for Lodge purposes, including candidates for election. Membership information may not be given out to non-Members or used for any business or commercial purpose. Membership information may be provided to a non-Member performing functions on behalf of a Lodge, such as a printer who handles mailing of Lodge Bulletins. Personal information, including, but not limited to addresses, telephone numbers, E-mail addresses, social security numbers and the like, should not be released except as required for the Lodge purpose. (See also GLS 9.120)

04 The Lodge may authorize a Member to record its meetings to supplement the Lodge minutes or for other authorized purposes, but without Lodge approval a Member may not record or make any written record of its meetings. The Secretary may tape the proceedings for reference purposes in writing the minutes. The minutes may merely state that certain Members spoke on an issue without reporting the full remarks made.

05 Both the Secretary and the Exalted Ruler have the right to collect mail from the Post Office box, but the Exalted Ruler has no right to demand (1) a key to the Secretary's office, (2) the combination to the safe or (3) that the Trustees (or Board of Directors as may be applicable) assign the Secretary's office to him, or (4) the computer password to files or records password protected by the Secretary.

06 While a Lodge Secretary may collect all mail for the Lodge, any mail addressed by name to the Exalted Ruler or other person at the Lodge should be delivered to them unopened unless each has given the Secretary permission to open. Lodge mail not bearing a name can be opened by the Secretary as the Lodge's correspondent.

07 A By-Law provision providing that initiation and affiliation fees be turned over to the Trustees (or Board of Directors as may be applicable) is illegal.

08 All Lodge records should be open for inspection by a Member at all reasonable times.

09 The recording of a resolution on the death of a Member in a memorial book with a reference thereto in the minutes of an adoption thereof is sufficient compliance with the duties of a Secretary to record the proceedings of the meeting.

10 Funds of a Lodge may not be loaned to a Member. Parties involved may be subject to charges.

11 The salary of the Lodge Secretary may be a fixed amount, based on the number of Members or a percentage of the dues collected, or a combination thereof, as may be set forth in the Lodge By-Laws but it cannot be determined by the Board of Trustees (or Board of Directors as may be applicable) or other Lodge Officers. The salary is subject to Social Security taxes and can only be changed by By-Law amendment.

STATUTES ANNOTATED

12 When the governing body of the Club facility has funds in its hands, they should be delivered to the Secretary of the Lodge, who, under Section 12.050, is required to receive all monies due to the Lodge from any source whatever, and to pay the same to the Treasurer.

13 A Secretary may be a candidate for any political office provided his membership in the Order is not used for any political purpose. *See 9.070, Opinion 06.*

14 If the office of Lodge Secretary is vacant, necessary continuity in the signing and issuance of membership cards and other Secretarial duties should be exercised by an Acting Secretary appointed with full power and authority by the Exalted Ruler until an election can be held.

15 A Lodge Secretary may not simultaneously hold the positions of Secretary and Club Manager. *See 9.300.*

16 The Board of Directors/Trustees are entitled to receive copies of any and all financial records of the Lodge. The Board of Directors/Trustees, subject to control of the Lodge, are required to control and oversee the funds and investments of the Lodge; and, they are also required to prepare the annual budget showing actual income and expenses of the current year and proposed budgeted amounts for the upcoming year. Without access to the financial records of the Lodge, the Trustees would be prevented from performing their statutory duties.

• DECISIONS •

01 Embezzlement of Lodge funds by the Secretary thereof is a Violation of the Obligation of an Elk and is punishable by expulsion from the Order. *(Grand Forum, Case No. 334, 1929)*

02 Misappropriation of monies and assets of a Lodge by the Secretary constitutes an offense. *(Grand Forum, Case No. 121, 1915)*

03 The ultimate determination of the office hours of a Lodge Secretary should be made by the Members of the Lodge. *(Grand Forum, Case No. 479, 1961)*

04 Where the Secretary of a Local Lodge receives the payment of dues from a Member of the Lodge and fails to pay the same to the Treasurer of the Lodge at the earliest possible moment practicable, as required by Section 12.050 of the Grand Lodge Statutes, and misappropriates the same, he is guilty of a Violation of his Obligation and subject to expulsion from the Order. *(Grand Forum, Case No. 483, 1962)*

05 Where the Secretary of a Local Lodge so mismanages the club facilities as house manager as to reveal inability to supervise, keep records or maintain financial responsibilities, he is jeopardizing the financial condition and proper operation of the entire Lodge. His duties as Secretary and as house manager are difficult to distinguish and decide. Misconduct and mismanagement by such a person in his duties as house manager justify his removal as Secretary by Executive Order of the Grand Exalted Ruler. *(Grand Forum, Case No. 505, 1964)*

06 The Secretary of a Local Lodge who offers a non-resident an application for balloting, fails to notify or return fees to the applicant after the Grand Exalted Ruler has denied dispensation to ballot and initiate, and who thereafter presents a membership card to the applicant after he was illegally initiated into the Lodge, may be removed from his office as Secretary by the Grand Exalted Ruler under the provisions of Section 9.010, Grand Lodge Statutes. *(Grand Forum, Case No. 504, 1964)*

07 Action by a Lodge Secretary intentionally filing an Annual Report to the Grand Lodge with false membership figures, resulting in underpayment of the Grand Lodge per capita fee, constitutes neglect of the duties of his office, thereby justifying removal from office pursuant to Section 9.010, Grand Lodge Statutes. *(Grand Forum, Case No. 937, 1997) See 9.010, Decision 09*

08 In Local Forum matters, it is a denial of Due Process to prevent the Accused or Accuser from having access for inspection to such Lodge records as are relevant to presenting their case. *(Grand Forum, Case No. 1082, 2005)*

09 Absent a valid excuse, "obtained in advance," it is mandatory that Officers, who are required by Statute, attend the District Deputy Clinics. *(Grand Forum, Case No. 1107, 2006)*

Section 12.060. The Treasurer of the Lodge shall:

- (a) Receive all monies of the Lodge from the Secretary, giving him a receipt therefor.
- (b) Pay all approved bills against the Lodge on vouchers signed by the Exalted Ruler and Secretary. The Lodge By-Laws may provide for payment of recurring bills after approval of the Board without obtaining Lodge prior approval. The Payment shall be reported at the next Lodge meeting. The Lodge Treasurer shall be the only Member of the Lodge authorized to make electronic fund transfers or payments by debit card to vendors for the payment of any bills referenced herein.
- (c) Maintain an accurate record of receipts and disbursements.
- (d) Give bond of at least \$5,000 or in a greater amount as may be provided in the By-Laws.
- (e) Act as Treasurer of all Committees unless otherwise provided by the By-Laws.
- (f) Sign all checks unless the By-Laws also provide for a member of the Board of Trustees (or Board of Directors as may be applicable) or a chair officer designated by the Treasurer and approved by the Lodge to sign. The Trustee or designated officer shall give bond in the same amount as required of the Treasurer. A Lodge may authorize the Treasurer to establish and replenish a checking account, not to exceed \$5,000.00, for the sole purpose of paying for Club supplies and inventory. With the approval of the supervising and managing body of the Club, the Treasurer may authorize another Officer or the Club Manager to be a signer on this account only. Should the By-Laws require more than one signature, the additional signatories shall not be permitted to be an immediate family member of the first signatory.
- (g) Receive compensation as provided for in the By-Laws.
- (h) Notify the Board of Trustees (or Board of Directors as may be applicable) when the unappropriated cash in his possession exceeds such amount as shall be set forth in the Lodge By-Laws.

(NOTE: See also 13.040(k))

• OPINIONS •

01 The Lodge by resolution or By-Law may designate the depository for Lodge funds. When no designation is made the Treasurer may make such determination. Specification by the Lodge relieves the Treasurer and his surety of responsibility in the event the depository selection proves unwise.

02 Funds derived from dining room, bar and other services are Lodge funds. The Lodge Treasurer is Treasurer for all Lodge Committees and shall handle all Lodge funds and pay all bills on vouchers approved by the

Exalted Ruler and Secretary.

03 The Lodge may provide for co-signers of checks, in addition to required signers, with the Treasurer. The Board may recommend payment of Lodge bills, but cannot order payment or sign checks to pay bills except with By-Law permitting.

04 The Treasurer is in violation of his duty if he refuses to honor a voucher signed by the Exalted Ruler and Secretary turning funds over to the Board for investment in accordance with By-Law provisions.

STATUTES ANNOTATED

05 Expenditures from earmarked funds must be handled as bills against the Lodge after approval of the body or committee in charge of the fund. Special funds should be kept segregated under the control of the Treasurer. Earmarked funds should not be issued for any other purpose. By-Laws may provide for special handling of earmarked funds.

06 The Treasurer should retain the vouchers presented and the Secretary should maintain a file for the bills.

07 Trust funds may be accepted by the Lodge if the terms of the trust are consistent with the purposes and principles of the Order.

08 A newly-elected Treasurer should sign checks to pay bills properly authorized before his installation, unless approval has been rescinded by the Lodge.

09 It is improper for a Treasurer to sign a number of checks which would permit the Board to approve Lodge bills and fill in the payee and amounts and then cosign the checks.

10 It is proper for the Treasurer to act as a routine auditor for the governing body. This

in no way limits the appointment of the Auditing Committee. *See 12.070, Opinion 10.*

11 If two signatures are required on checks, one must be as authorized by 12.060(f).

12 It shall not be a violation of 12.060(f) for a Lodge to designate, without a By-Law amendment, one or more Members of the Lodge to be additional check signers to act in addition to the Lodge Treasurer or alternate approved signer, provided that no additional check signer may be a member of the same family as the primary check signer.

13 The Board of Directors/Trustees are entitled to receive copies of any and all financial records of the Lodge. The Board of Directors/Trustees, subject to control of the Lodge, are required to control and oversee the funds and investments of the Lodge; and, they are also required to prepare the annual budget showing actual income and expenses of the current year and proposed budgeted amounts for the upcoming year. Without access to the financial records of the Lodge, the Trustees would be prevented from performing their statutory duties.

• DECISION •

01 A Local Lodge has supreme authority to determine how its funds shall be disbursed, and may, at a subsequent meeting, rescind

previous authority to disburse such funds. (*Grand Forum, Case No. 404, 1957*)

Section 12.070. The Board of Trustees, or the Board of Directors if the Lodge is incorporated under Section 16.020, (herein called “the Board”), after each annual installation shall meet and organize by electing a Chairman and Secretary who shall be members of the Board. The Chairman of the Board shall attend all District Deputy Clinics unless excused for good cause by the District Deputy, provided, however, in the event the Exalted Ruler or Esteemed Leading Knight is the Chairman, then one other member of the Board shall be designated by the Board and required to attend all District Deputy Clinics. The Board, subject to control by the Lodge, shall have the following powers: (a) control of the funds, investments and real and personal property of the Lodge, not otherwise provided by law, and shall receive and collect the income and rents therefrom, (b) execute all leases, contracts or other papers when ordered by the Lodge. The Board shall not have authority for listing of Lodge real estate for sale and/or entering into any sales contract prior to approval of such action by a majority vote of the Lodge. The Board shall hold at least one regular meeting each month and needed special meetings called by the Chairman. They shall keep minutes of each meeting of the Board. If the Lodge is not incorporated, the Exalted Ruler shall be given the same notice of all meetings of the Board, and in the same manner, as is given to the other members of the Board. It shall also keep a record of investments made under direction of the Lodge, which shall show original cost, the due dates and amount of interest or profit on investments, the date and amounts of deposits made by it and date and amounts of drafts drawn from the bank by order of the Lodge.

It shall purchase all supplies ordered by the Lodge, and all papers, books and stationery needed by the Officers for the performance of their duties. It shall hold the bonds of the Officers, and shall present a monthly written report of its transactions at the first regular meetings each month. It shall establish an Accident Prevention Program, with one member designated as Accident Prevention Manager, to continually review and implement a policy, in concert with Grand Lodge and State Association programs, to protect the Lodge from claims for accidents and injuries. It shall perform other duties as may be required by the Laws of the Order and By-Laws of the Lodge.

The Board shall present a segregated budget not later than the final regular meeting of the Lodge in April, making appropriations for each of the several objects for which the Lodge must or may provide out of monies known to be in possession of the Lodge or estimated to come into it during the ensuing Lodge year. A budget either in its original or modified form must be adopted by the Lodge at the meeting or at the next regular meeting. After the budget has been adopted, all expenditures during the Lodge year must be kept within the limits of the appropriations made. When a proposal is made for an expenditure in excess of the adopted budget, the proposal shall be promptly referred to the Board for consideration and written recommendation at the next regular Lodge meeting. The proposal may be adopted by not less than a two-thirds vote of the Members present at a regular meeting. The budget may include an item for contingent purposes to cover emergencies and expenditures therefrom may be approved by a vote of two-thirds of the Members present at a regular meeting. Unexpended appropriations at the end of the Lodge year shall be available for appropriation in the budget for the next Lodge year. In Lodges where a Budget Committee is required by the By-Laws the budget shall be prepared by that Committee. The Committee shall report to the Lodge by the final regular meeting in April.

(NOTE: See also 13.040(k))

• OPINIONS •

01 All actions of the Board are subject to the will of the Lodge set forth in proper resolutions. By resolution the Board could be empowered to fix the salaries for clerical assistants to the Secretary. The Board is bound by the depository designation approved by the Lodge.

02 The Lodge is the supreme power and the Board its agent. If the Lodge wishes to provide that a special committee take over a function customarily performed by the Board, it may do so.

03 A Lodge may require the production and reading of the minutes of the meetings of the Board.

04 The Lodge may adopt a By-Law establishing special funds supervised by the Board or a special committee and specify the vote needed to divert any of the funds therein.

05 The duties of the Board of the Lodge and its duties as the House Committee are separate and distinct and should not be confused. When sitting as a House Committee they operate the Club and hear complaints for violations of House Rules. The Board has control of Lodge property and supervises all attendant problems thereto.

06 If the Lodge does not specify investments, they are left to the sound discretion of the Board.

07 The Board and governing body of the Club should handle the day-to-day matters without Lodge direction, but these bodies need Lodge approval for binding contracts and major expenditures of an unusual nature.

STATUTES ANNOTATED

08 It is irregular and a violation of the Laws of the Order for the Board to set up its own budget to cover rents and income from investments without Lodge approval, and to disburse funds therefrom by checks signed by the Board Secretary only, and to refuse to handle and disburse these funds under Lodge control and through the Lodge Treasurer.

09 The Board shall reorganize upon the resignation of its Chairman and the election of his successor. There is no law which authorizes an advisor or a junior Board member.

10 The Board should install a proper system to keep account of Lodge property in its custody and make semi-annual reports of its transactions. Neither the Board nor the Auditing Committee have the authority to change the record-keeping system of the Secretary or Treasurer. Desired changes may be recommended to the Lodge for its consideration.

11 Investment of surplus Lodge funds in a security specified by the Lodge is not within the purview of Section 16.050.

12 Where a Lodge has authorized purchase of property and has directed the Board to execute necessary instruments, and one Board member refuses to sign, the signatures of the remaining Board members are sufficient, as they are merely agents carrying out the will of the Lodge. The Board member refusing to sign should resign, since he considers his opinion more valid than the action taken by the Lodge, and has violated the express provisions of this Section.

13 Where the Board knowingly invests or misuses Lodge funds, it may be charged before the Local Forum.

14 Where the Board has on hand money not needed in the current operation of the Lodge or Club, and the Lodge has not given directions for its investment or use, the Board may apply same on the Lodge or Club mortgage.

15 Funds or investment should be in the name of the Lodge, not in the name of the Board.

16 The Board should record in its minutes the receipt of the bonds of the Officers, wherein the surety may be either personal or corporate, and in an amount fixed by the By-Laws.

17 Failure to submit a budget to the Lodge under Section 12.070 may subject the Board or the Budget Committee to removal from office. It must be an annual segregated budget and there is no provision for a six months' budget.

18 A proposal to spend an amount in excess of the adopted budget must be referred to the Board for its consideration and written report; failure to do so is a violation of the Laws of the Order and any further action thereon is void.

19 The Board may hold open or closed meetings. Open meetings are preferred, but at certain times closed meetings are necessary to allow more free discussions.

20 Appropriations set forth in a budget do not authorize the expenditure of funds until the Lodge passes a specific motion authorizing same.

21 A By-Law requiring the preparation of a budget by the Board and the Budget Committee is invalid.

22 When a budget contains no contingent fund the Lodge may increase the budgeted fund by proper vote, but must also vote to (1) transfer funds from another fund or (2) authorize the borrowing in anticipation of future receipts.

23 Unexpended balances in budgeted items go back to the general fund at the end of the Lodge year and are available for appropriation the following year.

24 A By-Law may require proposed expenditures to be submitted to the Board for recommendation before submission to the Lodge.

25 Securing the Lodge premises is the responsibility of the Board, except that it shall accommodate required access by the Lodge Secretary and other Lodge-designated personnel. *See 12.050, Opinion 05.*

26 The Board shall provide adequate secured space or facilities to the Secretary of the Lodge such that the Secretary shall be able to satisfy his or her duties as set forth in Section 12.050 of the Grand Lodge Statutes. This requirement may be met by providing lockable storage facilities, or a locked office, solely accessible by the Secretary or his or her designee. The Secretary shall not unreasonably deny access to Lodge Officers, including Trustees, to an area necessary to perform their duties. The general membership of the Lodge has the ultimate authority to assign office space usage within the Lodge.

27 The Board is not the sole purchasing authority of the Lodge. Board powers are always subject to the control of the Lodge. Section 12.070 refers to Lodge expenses, as opposed to Club expenses.

STATUTES ANNOTATED

• DECISIONS •

01 The By-Laws of a Lodge not providing for a Budget Committee, it was the statutory duty of the Board of Trustees to provide a budget. It is admitted that they failed to do so, but their dereliction may not be visited upon the Exalted Ruler. (*Grand Forum, Case No. 401, 1942*)

02 A Local Lodge has supreme authority to determine how its funds shall be disbursed, and may, at a subsequent meeting, rescind previous authority to disburse such funds. (*Grand Forum, Case No. 464, 1957*)

03 A member of the Board of Trustees of a Local Lodge may not lawfully incur or authorize charges against the Lodge, or its facilities, for meals, drinks, etc. without approval of the Lodge. (*Grand Forum, Case No. 534, 1969*) See 9.010, Decision 12.

04 Absent a valid excuse, "obtained in advance," it is mandatory that Officers, who are required by Statute, attend the District Deputy Clinics. (*Grand Forum, Case No. 1107, 2006*)

Section 12.080. The Tiler shall be stationed at the outer door of the Lodge at all meetings and permit no person to enter without previous announcement through the Inner Guard, and permission of the Exalted Ruler. He shall require all Members to show their membership cards, and require visiting Members to register in the book kept for that purpose.

He shall remain at his station until the close of all meetings. He shall assume charge of all jewels, regalia and other like Lodge property, make sure that no jewels or regalia are worn outside the Lodge room (except during special ceremonies), and see that they are in proper condition for all meetings of the Lodge. He shall furnish all necessary paraphernalia by order of the presiding Officer, have charge of the keys to Lodge doors, and see that all Lodge property is safely stored before leaving the Lodge.

He shall perform other duties as are inherent in and pertain to his office, or required by the Laws of the Order, or the By-Laws of the Lodge.

He may receive compensation as may be fixed by By-Law.

Section 12.090. The Esquire shall organize the Lodge, prepare candidates for initiation, examine and introduce visiting Members, superintend the ballots, transmit official messages as directed by the Exalted Ruler, and in all public displays shall officiate as Marshal. He shall perform other duties as may be required by the Laws of the Order, or the By-Laws of the Lodge.

Section 12.100. The Chaplain and the Inner Guard shall perform the duties required of them by the Laws of the Order, or the By-Laws of the Lodge.

Section 12.110. The Organist shall provide music prescribed by the Rituals and perform other duties required of him. He may receive compensation for his services approved by the Lodge.

STATUTES ANNOTATED

Section 12.115. The Vocalist may perform during each Lodge session and during special services when requested and on special occasions when required by the Lodge. The Vocalist shall perform duties required of them by the Laws of the Order, or by the By-Laws of the Lodge.

Section 12.120. The representative to the Grand Lodge shall attend the Annual Session thereof and submit a report to the Lodge not later than the first regular meeting in October. The Lodge shall pay its representative not less than the amount provided for transportation and per diem while necessarily engaged in travel and for each day actually spent in attendance at the Session, as provided in Section 4.240. A Lodge shall give at least 15 days' notice to the Grand Secretary of its intent to send an alternate representative to the Grand Lodge Session.

• OPINIONS •

01 The Lodge is obliged to send the Exalted Ruler to the Grand Lodge Session and to pay the minimum amount provided for in Section 4.240 to defray his expenses. It is a Lodge obligation and not the obligation of the Exalted Ruler if funds are borrowed to provide funds for such expenses. A larger amount than that required by this Section may be appropriated by the Lodge. A vote of the Lodge not to send a representative to the Grand Lodge Session

is without effect. A Past Exalted Ruler holding an Office in the Lodge may be an alternate representative of the Lodge even though he resides outside the jurisdiction of the Lodge.

02 The official Lodge representative must attend the Grand Lodge Session, make a report thereon to the Lodge not later than the first meeting in October. Failure to attend the daily sessions denies the representative of his right to receive expenses.

• DECISIONS •

01 The Lodge has no power to instruct the Representative or Alternate not to attend Grand Lodge Sessions. (*Grand Forum, Case No. 254, 1924*)

02 Each Local Lodge at its annual election must elect an Alternate Representative. (*Grand Forum, Case No. 254, 1924*)

Section 12.130. The Exalted Ruler, with approval of the Lodge, may appoint Members of the Lodge especially qualified to organize degree teams for the exemplification of the Rituals, except for the Opening and Closing of Lodge meetings and the Initiatory Ritual, provided, however, the Lodge may, by an Amendment to its By-Laws, provide for a degree team, not necessarily composed of the duly installed Officers of the Lodge, for the rendition of the Initiatory Ritual. The Team shall consist of Members of the Lodge, especially qualified in rendition of the Initiatory Ritual appointed by the Exalted Ruler with approval of the Lodge, and who shall perform the Initiatory Ritual from memory. All elected and appointed Officers shall have the right to be a part of the degree team at their elected or appointed station.

• OPINION •

01 In voting under this section, abstentions are not counted as negative or positive votes. See *Appendix 1A(11)*.

Section 12.140. A Lodge may vacate the position of any Officer including a Trustee:

- (a) Who is absent from meetings of the Lodge, or duty, during two consecutive months without good cause, or
- (b) Who was replaced by an acting Officer under the provisions of Section 12.020, and determined by the Lodge to be unable to complete his term of Office;

Provided, that absence in the Armed Forces of the United States during a period of war in which the United States is engaged or during a period in which service is made compulsory by Act of the United States Congress, or during a period of national emergency proclaimed by the President of the United States, shall not be cause for vacating the position of any Officer. The Lodge shall give at least five (5) days written notice to the accused Officer who shall appear at the next regular Lodge meeting and give good cause, if any, why he should not be replaced. If the accused Officer cannot be present at the designated meeting, he or someone on his behalf may request adjournment to the next regular Lodge meeting. If at that regular Lodge meeting the accused Officer is absent or if the accused Officer is present and cannot show good cause for his absence or why he should not be replaced, the Lodge shall vacate the Office.

If the Office is vacated, such vacancy shall be filled as provided in Section 12.150 of the Grand Lodge Statutes.

• OPINIONS •

01 An Officer arriving after roll call should be marked present.

02 The reason for absence of an Officer should be noted in the minutes. There is no legal definition of a valid excuse for an absence.

See also Article III, Sec. 1, Opinion 02.

• DECISIONS •

01 When vacating the position of a Trustee, the Lodge shall give at least five days written notice to the accused Officer pursuant to the GLS 12.140. (*Grand Forum, Case No. 1004, 2001*)

02 The Grand Forum has appellate jurisdiction for review of compliance with procedural provisions of GLS 12.140 pursuant to GLS 7.020(c). (*Grand Forum, Case No. 1004, 2001*)

Section 12.141. A Lodge may remove any Officer, including a Trustee, for immoral conduct, abuses in Office or actions which may dishonor the Order.

Upon the filing of a written complaint with the Lodge Secretary setting forth the specific facts constituting the alleged immoral conduct, abuses in Office or dishonorable acts, the Exalted Ruler shall, at the next regular meeting of the Lodge, set a hearing date at the next regularly scheduled meeting of the Lodge for consideration of the complaint. At least five (5) days written notice of the specific charges as well as the date for the hearing on the complaint shall be given to the accused Officer. At this initial hearing, the formal charges shall be read and presented to the Lodge without argument for or against said charges. A vote of the Members present at the initial hearing to proceed with a formal hearing shall then be taken, requiring a two-thirds (2/3) majority vote of those voting at the meeting in order to proceed to a formal hearing.

STATUTES ANNOTATED

Upon Lodge approval of a formal hearing, the Exalted Ruler shall immediately set a hearing date at a regular session of the Lodge not more than thirty (30) days thereafter. The Secretary shall give written notice of the hearing date to the accused Officer and to the Members of the Lodge not less than five (5) days prior to the hearing date. The notice shall state that a vote will be taken at the formal hearing on whether or not to remove the accused Officer. The accused Officer shall have the right to be present at the formal hearing and defend against the complaint. A two-thirds (2/3) vote of those voting at that meeting shall be required to remove the accused Officer.

When a complaint is against the Secretary, the Exalted Ruler shall give the required notices. When a complaint is against the Exalted Ruler, the Esteemed Leading Knight shall be responsible for taking the actions described in this Section to be taken by the Exalted Ruler.

If the Officer is removed, such vacancy shall be filled as provided in Section 12.150 of the Grand Lodge Statutes.

• DECISIONS •

01 It is not a defense to allegations of misconduct or neglect that prior Officers or current Officers in other Lodges in the Order are guilty of the same transgressions. Each Officer, when entrusted with the duties of his office, is charged with responsibilities of his office and will be judged individually when allegations of misconduct and/or neglect of his duties are involved.

It is not a defense nor has it ever been a defense that misconduct or neglect may be excused because Officers in prior years or Officers of other Lodges are guilty of the same conduct. (*Grand Forum, Case No. 923, 1997; Case No. 955, 1999*)

02 A Lodge Officer may be removed by the Lodge under the provisions of Section 12.141 of the Laws of the Order or by

Executive Order of the Grand Exalted Ruler under Section 9.010 of the Laws of the Order. (*Grand Forum, Case No. 995, 2001*)

03 In an Appeal from an Action by a Local Lodge in removing an Officer pursuant to the provisions GLS Section 12.141, the Grand Forum is only charged with the responsibility of seeing that the procedural provisions of that Statute were complied with. (*Grand Forum, Case No. 1092, 2005*)

04 Under GLS 12.141, a vote of the Lodge to remove an officer must comply with GLS 15.080 in that the Lodge minutes must reflect how many members voted on the question and what the actual vote totals were, whether by a majority of those present or by a secret ballot. (*Grand Forum, Case No. 1379, 2016*)

Section 12.150. Whenever an elective Office shall become vacant, or no person is nominated for or elected to an elective office in accordance with the provisions of Grand Lodge Statutes 3.080 and 3.090, or a Member, who has been elected dies, resigns or is otherwise incapable of serving and who will not be available for installation following his election, the Exalted Ruler shall, not later than the second regular meeting thereafter, order an election to fill such Office for the unexpired term thereof or the full term, as the case may be. The Exalted Ruler may, at any time he deems expedient or necessary, appoint any Member, in good standing of the Lodge to fill the vacancy so created until such office is filled by election as provided herein, such appointee to have full power and authority to do all acts necessary and required of that office to which he is

appointed. Whenever the number of the Trustees of the Lodge shall be increased by Lodge By-Law, the election of the additional Trustees shall be held at the next regular meeting.

Elections to fill vacancies arising in the preceding paragraph shall take place at the next regular meeting after said order. Nominations for Office may be made at the meeting when the Exalted Ruler orders the election and again at the meeting when the election is held. The vacancy caused by the election of another elective Officer to fill such vacancy may be filled at the same meeting. The voting procedure to fill a vacancy shall be governed by Section 3.090.

• OPINIONS •

01 If both the Exalted Ruler and the Alternate Representative are unable to attend the Grand Lodge Session, the Alternate should resign and a replacement should be elected under this Section.

02 The proper procedure for an Officer to resign is in writing to the Exalted Ruler who shall announce the resignation at the next Lodge meeting or the Officer may announce the resignation in a Lodge meeting. It is effective when announced at the Lodge meeting. Acceptance of a resignation by the Lodge is not necessary.

03 Notice of an election to fill a vacancy need not be sent to the Members if the

election is to be held at a regular meeting at the usual hour.

04 It is improper to adjourn a meeting to a later date where a ballot was to occur to elect an Officer to fill a vacancy.

05 Any Member in good standing, regardless of residence, and except for those ineligible under Sections 8.180, 9.010, 9.011, 9.040 and 9.300, may be nominated for any elective Lodge office by any Member in good standing. Any By-Law attempting to provide otherwise is void.

See 3.090, Opinion 24 and 12.010, Opinion 02.

Section 12.170. If any Lodge employee or Member reports in good faith what the employee or Member believes to be a violation of the Laws of the Order, any federal, state or local law, or any financial wrongdoing, to any duly constituted authority of the Order, or assists in an investigation concerning financial wrongdoing, there shall be no retaliation taken against the employee or Member, including but not limited to harassment or disciplinary action by the Lodge or any of its Members.

Section 12.180. Any Member whose term of service has expired in either an elected or appointed position within a Lodge, and any Lodge employee upon completion of his employment, within 14 days of the expiration of the term for which they were elected or appointed, or of their termination from employment, shall return to the Lodge Secretary originals and copies of all records, materials, other information and any personal property of the Lodge in their possession which were obtained in connection with the performance of their duties.

STATUTES ANNOTATED

— CHAPTER 13 —

LOCAL LODGE COMMITTEES

Section 13.010. The Exalted Ruler, Esteemed Leading, Loyal and Lecturing Knights, Secretary and Treasurer shall constitute the Standing Relief Committee of the Lodge, which shall examine the merits of all cases suggesting the necessity of aid or relief.

• OPINIONS •

01 The Chief Justice or his designee may seek assistance from the Local Lodge's Standing Relief Committee to determine indigency.

02 All requests for charitable purposes must be reviewed for recommendations by

the Standing Relief Committee for Members and through the Community Activities Committee for non-Members before the Lodge may legally vote on the appropriation. Motion on such request may be made by any Member.

Section 13.020. The Exalted Ruler, at the first meeting after his installation, shall appoint a lawyer, if available, and if not available, he may appoint a lawyer who is a Member of another Lodge, as the Presiding Justice of the Local Forum, a Mediator from his or another Lodge and no fewer than three Members to the following committees: Auditing and Accounting Committee, Activities Committee, Public Relations Committee and Fraternal Committee. These committees shall have responsibilities set forth in the following Sections: Auditing and Accounting (*13.040*), Activities Committee (*13.021*), Public Relations Committee (*13.024*) and Fraternal Committee (*13.022*). Special committees may be appointed for special purposes as the Lodge may direct. An Exalted Ruler may appoint multiple Presiding Justices and/or Mediators as the needs of a Lodge may require. The Exalted Ruler shall assign a specific Presiding Justice and Mediator on each case.

• OPINIONS •

01 The Presiding Justice is not an Officer of the Lodge and need not be installed.

02 Committees are agents of the Lodge but its members are not Officers of the Lodge. Elective or appointive Officers may be on committees. The Lodge may discharge a special committee on completion of its work, but it cannot discharge a Standing Committee.

03 A By-Law prohibiting a Committeeman from succeeding himself, endeavoring to elect or designate committee personnel or require a certain term of Lodge membership for committeemen is illegal.

04 A Lodge may create a "Fiscal Management Committee" to review operations and procedures and make limited recommendations not contrary to the Constitution and Laws of the Order.

05 If a special committee appointed by the Exalted Ruler in accordance with a resolution adopted by the Lodge refuses to comply with the instructions of said resolution, the

Exalted Ruler has the right to remove members from the committee and the Lodge has the right to discharge the committee. A motion to discharge a special committee, the duties of which have not been completed is equivalent to a motion to rescind and requires a two-thirds vote of all Members present. The Lodge by proper action may create a special committee for a special purpose which will require the committee to remain in existence beyond the term of the Exalted Ruler making the appointment.

06 A special committee may be appointed to organize an entertainment to raise funds to send a delegation to the Grand Lodge Session, but it must obtain Lodge approval to expend money or make contracts.

07 The funds collected by a Dance Committee should be turned into the Secretary and any expenses paid through the Treasurer. The Committee must have Lodge approval before contracting for entertainment.

08 It is permissible for an Exalted Ruler to appoint non-Members to serve on special committees which do not consider confidential matters of the Order.

09 It is recommended that all Lodge Members be given notice, to the extent possible, of the date, time and location of any and all Lodge committee meetings.

• DECISIONS •

01 The Presiding Justice of a Local Lodge is appointed by and removable at the will of the Exalted Ruler. (*Grand Forum, Case No. 508, 1965*)

02 A Presiding Justice of the Local Forum should act with impartiality and should not engage in conduct which is contrary to a fair and impartial determination of the issues. Where a Presiding Justice takes an adversarial position with regards to a pending complaint, he has expressed a personal bias and should recuse himself; his subsequent consideration of the case amounts to gross misconduct. (*Grand Forum, Case No. 758, 1988*) See Section 8.010, Decision 02.

03 The appointment of a Presiding Justice of a Local Forum is an act specifically reserved to the Exalted Ruler of a Lodge. This appointment is not subject to confirmation by the Lodge or by any Member or body within the Lodge. The appointee shall be a lawyer in the active practice of his profession if available. If the Exalted Ruler violates the Law of the Order, charges may be made against him as provided in Section 8.180 before the Local Forum. A Complaint against the Local Lodge in such a case fails to state a cause of action over which the Grand Forum has original jurisdiction and will be

dismissed on a motion to dismiss being filed.

Local Forums have original jurisdiction in all matters involving charges against a Member of a Local Lodge and the Grand Forum has only appellate jurisdiction from the Local Forum in such case. (*Grand Forum, Case No. 521, 1967*)

04 Grand Lodge Statute 13.020 which requires the Exalted Ruler to appoint a Lawyer, if available, as the Presiding Justice of the Local Forum, is directory, and not mandatory.

05 The Exalted Ruler has the exclusive right to appoint all Lodge Committees, including a House Committee, designated under Lodge By-Laws to manage and supervise the Club facility. The Lodge has no authority to specify who the Exalted Ruler may appoint.

Although their term normally expires when the Exalted Ruler leaves office, House Committee Members serve at the pleasure of the Exalted Ruler and may be removed by him at any time, with or without cause. (*Grand Forum, Case No. 949, 1998*)

06 A Mediator and a Local Forum Justice cannot be the same individual. (*Grand Forum, Case No. 1083, 2004*)

Section 13.021. The Activities Committee shall be charged with the following:

- (a) Implementing the Drug Awareness Program and the Hoop Shoot® Program of the Lodge, State Association, and the Grand Lodge.
- (b) Supervising all matters pertaining to Lodge activities of civic, social, and community interest, including one program solely identified as Elks-sponsored within the jurisdiction of the Lodge and developing community projects that emphasize the charitable works of the Order.
- (c) Promoting, supporting and overseeing programs for the youth of the community, such as The Antlers of the Benevolent and Protective Order of Elks, and implementing all youth programs of the Lodge, the State Association, and the Grand Lodge.

STATUTES ANNOTATED

Section 13.022. The **Fraternal Committee** shall be charged with the following:

- (a) Implement the patriotic activities planned by the Grand Lodge and cooperate with other local organizations in fostering patriotic community endeavors.
- (b) Prepare and carry out all arrangements for Flag Day services as required by the provisions of Section 2.030.
- (c) Prepare, supervise, and conduct a planned program for indoctrination of candidates and their families prior to initiation in order that all candidates and their families may become fully informed as to the good works of the Order of Elks.
- (d) Investigate the character of all applicants for membership and reinstatement, personally interview all applicants, verify the statements in their application, and report at the next regular meeting of the Lodge.
- (e) Secure applications for membership in the Order, investigate and report on all delinquencies in Lodge dues, encourage delinquent Members to pay their dues and avoid being dropped from the rolls of the Lodge, and promote the reinstatement of lapsed Members. The committee shall regularly report to the Lodge on membership.
- (f) Implement the Lodge activities program of the Lodge, its State Association, and the Grand Lodge.
- (g) Arrange for the observance of Elks Memorial Day as required by the provisions of Section 2.020.
- (h) Publicize the Elks National Foundation, promote its programs, activities, and charities, encourage and solicit contributions, and recognize all gifts made to the Foundation.
- (i) Implement the program of the Elks National Veterans Service Commission within the Lodge in furtherance of service to veterans, assist when called upon by the Armed Forces of the United States, respond to any call for aid and cooperation requested by the government in any emergency, and be available to assist in the event of disaster in any area of the United States.

• **OPINION** •

01 Funds received by a Lodge for the specific use of the Elks National Foundation or a State Major Project should be promptly forwarded to the designated beneficiary. To

do otherwise defeats the impact and timeliness of the gift and frustrates the intent of the donor.

Section 13.024. The **Public Relations Committee**, consisting of not fewer than three members, is charged with implementing the Public Relations Program of the Lodge, its State Association and the Grand Lodge.

Section 13.040. The **Auditing & Accounting Committee** shall:

- (a)* Oversee the preparation of the Financial Reporting System [FRS] report. The FRS must include all books, records and activities of the Lodge, Home, Club, separate corporation and any other entity affiliated with the Lodge.
- (b)* Receive from the Licensed Tax Professional and deliver to the Lodge by August 1 the applicable Federal and State tax returns, completed for all entities of the Lodge.
- (c)* Failure to timely submit the FRS report may subject the Lodge to a fine of one hundred dollars (\$100) and a subsequent fine of an additional one hundred dollars (\$100) for each calendar month thereafter, not to exceed five hundred dollars (\$500). Payment of a fine does not relieve the Lodge of the duty to file the report and continued refusal will be considered Contumacy.
- (d)* Ensure that each entity of the Lodge is documented in segregated profit and loss statements in the FRS.
- (e)* Require the use of the Uniform Chart of Accounts provided in Section 4.330.
- (f)* Act on other matters of finance as the Lodge may direct.
- (g)* The Members of the Committee shall continue with their duties until the FRS for the month of March is completed, reported to the Lodge and filed with the Grand Lodge for the fiscal year in which it is appointed as herein directed.
- (h)* The Committee shall, in the months of July, October and January, review the required record-keeping of the financial affairs of the Lodge and Club and compliance with the approved budget, and report at the last regular meeting of the Lodge during those months.
- (i)* A Local Lodge shall use the FRS and comply with the Grand Lodge Auditing and Accounting Manual.

 - 1.* A Local Lodge failing to use the FRS is subject to an Audit or a Review, as determined by the Grand Lodge Auditing and Accounting Committeeman and approved by the State Sponsor(s).
 - 2.* At any time a Lodge FRS indicates mismanagement, financial inconsistencies or failure to follow standard accounting principles, the Grand Lodge Auditing and Accounting Committeeman, with approval of the State Sponsor(s), may require an Audit or Review.

STATUTES ANNOTATED

3. Unless waived by the Sponsor, Lodge Federal and State Tax Returns must be prepared by a Licensed Tax Professional who is independent of the Lodge and independent of preparation of the FRS. The same financial information used to prepare the FRS must be independently used to prepare the applicable Federal and State Tax Returns.

- (j) No Lodge Secretary, Treasurer, Trustee, Director, or any member of the Supervising or Managing Body of the Club, Social Parlor or other facility established in connection with the Lodge shall serve as a member of the Auditing & Accounting Committee.

• OPINIONS •

01 A Member of the Auditing & Accounting Committee should not perform the audit, but a properly trained accountant who is a Member of the Lodge may be employed for that purpose.

02 Neither the Governing Body of the Club facility nor the Board of Trustees (or Board of Directors as may be applicable) is authorized to employ its own accountant. The audit of its records shall be performed by the accountant employed by the Auditing & Accounting Committee.

03 The Auditing & Accounting Committee is not responsible to the Board of Trustees (or Board of Directors as may be applicable) and need not report to them.

04 A member of the Lodge Auditing & Accounting Committee has the right, at reasonable times, to examine the Lodge records and make copies thereof in connection with the audit.

Section 13.180. Every Committee may request books, documents, papers and other articles as it may deem necessary. Every Member of the Lodge notified to appear before a Committee, to produce books, papers or other articles in his possession or under his control, shall attend and comply and continue his attendance until dismissed.

Section 13.190. The Lodge shall have a Past Exalted Rulers Association or Advisory Committee which shall consist of all the Past Exalted Rulers of the Lodge and all Past Exalted Rulers of another Lodge who are now Members of the Lodge, as defined in Section 1.140 hereof, which shall advise with and extend its counsel to all Lodge Officers and Committees and shall have the following duties, subject to the limitations imposed by the Constitution and Statutes of the Order:

- (a) To elect its own Officers.
- (b) To adopt rules for the conduct of its business.
- (c) To hold meetings and to specify the dates of such meetings.
- (d) To make recommendations for Lodge Committee appointments and candidates for office.
- (e) To assist the Exalted Ruler.

STATUTES ANNOTATED

(f) To engage in and make recommendations in other activities which will promote the good of the Lodge and of the Order.

• OPINIONS •

01 There is no requirement that the Grand Lodge approve the Constitution and By-Laws of a Past Exalted Rulers' Association.

02 All funds generated or held by a P.E.R. Association, other than P.E.R. Association dues, belong to the Lodge, may only be used if budgeted and approved by the Lodge, and are subject to audit by the Lodge.

Section 13.200. Organizations recognized by a Lodge pursuant to Article III, Section 18, paragraph three of the Constitution of the Order, shall comply with the following:

- (a) Only Members and Associate Members of the Lodge may be members of the recognized organizations, which shall be open to all Members and Associate Members of the Lodge.
- (b) Only Members of the Lodge in good standing may be Officers of the organization.
- (c) The organization may charge its Members dues.
- (d) All funds generated by the organization, excluding dues, belong to the Lodge and may be used only if properly budgeted and approved by the Lodge. All funds generated by the organization, excluding dues, must be promptly remitted to the Lodge Secretary.
- (e) An organization shall have its own By-Laws, which must be approved by the Lodge, including any amendments. Such By-Laws shall not conflict with the Laws of the Order or By-Laws of the Lodge. Organization By-Laws become effective upon approval by the Lodge and do not require approval by the Committee on Judiciary.
- (f) All members of recognized organizations shall execute and deliver to the Lodge a membership application which shall contain an agreement to indemnify and hold harmless the Lodge, State Association, and the Grand Lodge from loss, claim, or liability arising from participation in activities associated with membership in the organization.

• OPINION •

01 This Section applies only to organizations recognized under paragraph 3 of Article III, Section 18 of the Constitution of the Order and does not apply to ladies orga-

nizations recognized as an auxiliary under paragraph 2 of Article III, Section 18 of the Constitution of the Order.

STATUTES ANNOTATED

— CHAPTER 14 —

LOCAL LODGE MEMBERSHIP AND REVENUES

Section 14.010. An applicant for membership in the Order shall be:

- (a) A citizen of the United States of America who will pledge allegiance to and salute our Flag.
- (b) Not less than twenty-one (21) years of age.
- (c) A believer in God.
- (d) Of good character.

No person shall be accepted as a Member of the Order who is a member of or directly or indirectly participating in the activities of any group or organization, or supporting or adhering to beliefs or tenets advocating the overthrow of the Government of the United States or any of its political subdivisions by force or violence.

A Member of the Order cannot be a Member of more than one Lodge at the same time.

If within five years from the date of an application the applicant has resided within the jurisdiction of another Lodge, the applicant shall on his application give the names and addresses of at least two citizens residing in the jurisdiction of such Lodge. A copy of the application may be sent to said Lodge by the Secretary of the Lodge to which the application was made. The Exalted Ruler of the Lodge to which the application is referred shall, at the next regular meeting, refer the application to the Fraternal Committee. The Committee shall carefully inquire as to the character and fitness of the applicant while he was resident within the jurisdiction of its Lodge and verify statements made in the application to the best of its ability. The Committee shall make a report of its findings to the Secretary of their Lodge who shall record and report in the minutes of the next regular Lodge meeting. The Secretary shall forward the report to the Secretary of the referring Lodge. The report shall be recorded in the minutes of the next regular meeting of the Lodge submitting the application.

No vote shall be taken upon the application until the Fraternal Committee of the Lodge to which the application was referred has made a report and the report has been read in the Lodge referring the application.

Within three (3) days of its receipt, each application shall be referred to the Fraternal Committee which, after completing its duties, shall report at the next regular Lodge meeting or as soon thereafter as practicable.

The Secretary shall, no fewer than seven (7) days immediately prior to balloting, either:

- (a) mail notice in writing to all Members of the Lodge, giving the name and city and state of each applicant, his business, the name of his proposer, and the date when action may be taken upon the application,

OR

- (b) post in the Lodge the name and city and state of each applicant, his business, the name of the proposer, and the date of the meeting at which action may be taken on the application.

After the report by the Fraternal Committee, or a majority thereof, and after due notice has been given, a ballot for admission of the candidate shall be taken, unless the Lodge has received credible information that the applicant is unworthy. The Lodge may direct the appointment of a Special Committee to investigate the charges and report at a regular Lodge meeting, and at the next regular meeting after the report is made a ballot shall be taken.

No Lodge shall act upon an application for membership received from an applicant residing in the jurisdiction of another Lodge until the Grand Exalted Ruler shall have granted a dispensation therefor under the provisions of Section 14.080; provided that if the Lodge of jurisdiction consents, as provided in Section 14.080, the Lodge selected by the applicant may proceed to process his application without such dispensation.

• OPINIONS •

01 A proposer need not be present when his candidate is balloted upon.

02 Remission of annual dues as a reward for regular attendance at meetings is void.

03 Waiver of any portion of dues as an inducement to membership is illegal.

04 A person expelled or suspended by a Lodge cannot be received as a Member by another Lodge.

05 A Lodge may not prepare its own application form or prescribe membership qualifications or prohibitions not provided for in the Laws of the Order.

06 Unless an application is withdrawn it must be voted upon even though there is an unfavorable investigation report.

07 Notice of balloting on candidates may be by Lodge bulletin or other mail.

08 The time period between reading an application and balloting thereon may not be shortened by those responsible for investigation of the candidate reporting to the Exalted Ruler or the Secretary and not to the Lodge.

09 The fact that a previous application was withdrawn should be reflected on any future application made by that person.

10 Living in a community because of employment does not establish residence of an applicant, unless there is an intent to make the place one's permanent home.

11 It is improper to delay the processing of an application for an unreasonable length of time. It should be handled expeditiously.

12 A person who is not a citizen of this country is wholly without eligibility to membership. If initiated he must, upon discovery, be forthwith dropped from membership. The necessity of citizenship is so fundamental that such a person never gained membership. The fact that he served as Exalted Ruler of one of our Lodges does not alter the situation.

13 After investigation, the Lodge can determine the "good character" of an applicant who has disclosed a prior felony conviction or misdemeanor conviction for a crime involving moral turpitude. It is possible for such a candidate to be fully reformed such that the Lodge may feel he or she can be a worthwhile Member. *See 9.090, Opinion 09.*

14 If, in the judgment of the Exalted Ruler, an unfavorable ballot on a candidate was the result of unlawful discrimination, then the calling of a further ballot is appropriate to avoid conflict with federal and state law. All Members, in the Obligation, swear to uphold the law.

15 The ultimate authority in determining which form of notice, mailing or posting, will be used to inform the members of candidates scheduled for balloting rests with the Membership, and a vote on the floor of the Lodge directing the Lodge Secretary to use one option or the other shall control.

STATUTES ANNOTATED

• DECISIONS •

01 No Local Lodge may vote on the application for membership of a person who does not reside within the jurisdiction of the Lodge without waiver from the Lodge having jurisdiction or dispensation from the Grand Exalted Ruler. Unless said conditions are met the Secretary of such Lodge should not offer such application for balloting. (*Grand Forum, Case No. 504, 1964*)

02 When the Grand Exalted Ruler denies application for dispensation to ballot on and initiate a person who does not reside within the jurisdiction of the Lodge, his action is final and the Secretary of the Local Lodge must so notify the applicant and return his initiation fee. (*Grand Forum, Case No. 504, 1964*)

03 Letters notifying a Lodge of the receipt of a request for dispensation to receive the application of a non-resident and requesting the Lodge notified to consent to the granting of the same are sufficient notice under Section 14.080 of the Statutes.

A reasonable opportunity having been given to a Lodge to object to the granting of a dispensation permitting a Lodge to receive

the application of a non-resident, the Grand Exalted Ruler may proceed to exercise his discretion in issuing the same.

The issuing of a dispensation by the Grand Exalted Ruler to permit a Lodge to receive the application of a non-resident is an Executive Order. (*Grand Forum, Case No. 124, 1914*)

04 The words "bona fide" only qualify the word "resident" in so far as the word "resident" is dependent on the intent necessary to establish residence. The word "resident" as used in Section 14.080 has always been construed as identical with the definition of residence as used in the State and United States Statutes defining the qualifications of voters. (*Grand Forum, Case No. 211, 1921*)

05 A Lodge has no jurisdiction over an application for membership unless and until compliance has been made with Section 14.010; therefore, if this Section is not complied with, all proceedings on the application are illegal and void. (*Grand Forum, Case No. 287, 1926*)

Section 14.020. A person desiring membership in the Order must be proposed in writing by a Member of the Order, with said application being submitted at a regular Lodge meeting of the Lodge of the proposed candidate for membership. If the person is proposed by a Member of the Order not a Member of the Lodge to which the application is submitted, a certification from the Secretary of the Lodge of the proposer must accompany the application certifying that the proposer is a Member in good standing of the Order. Membership applications may be included in Lodge Bulletin mailings or in a sealed envelope going only to Elks. The official application of the Order, signed by the applicant, shall state his name, occupation, date and place of birth, present residence, residences and occupations during the five (5) years last preceding the date of the application, two references who are Members of the Order and whether or not the applicant has been proposed for membership in another Lodge of the Order, and, if so when, where and with what result.

The applicant must state that he believes in God, that he is not a member of or directly or indirectly participating in the activities of any group or organization, or supporting or adhering to beliefs or tenets advocating the overthrow of the Government of the United States or any of its political subdivisions by force or violence, and that he is willing to assume an obligation that will not conflict with his duties to himself or his family or his religious or political opinions, and which binds him to uphold the Constitution and the laws of the United States of America.

If the applicant states that his place of birth was without the jurisdiction of the United States, satisfactory evidence that he is a citizen of the United States of America must accompany his application. A person otherwise qualified, who has been initiated as a Member of the Order upon presentation of citizenship mistakenly made in the honest belief that he was an American citizen, and who subsequently has been issued a final certificate of naturalization under the laws of the United States, may apply for acceptance into membership in the Order. The application must be in writing, set forth all the facts and have attached thereto an affidavit of the Secretary of the Lodge that the applicant's certificate of naturalization has been exhibited to him. The application shall be presented to the Lodge in which the question of his citizenship arose. If three-fourths of the Members of the Lodge present and voting are in favor of the acceptance of the application, the complete record of the proceedings shall be sent to the Grand Exalted Ruler for approval. The Grand Exalted Ruler shall return the application to the Lodge with his approval noted. Should the Grand Exalted Ruler disapprove the application, the applicant shall be denied membership in the Order. When approved by the Grand Exalted Ruler, the applicant shall be notified to appear at a regular meeting of the Lodge and required to again take the Obligation of the Order. Without further initiation or the payment of any fee for initiation, he shall be deemed a Member and to have all the rights and privileges of membership as of date of his initiation.

• OPINION •

01 In any circumstances in which the U.S. citizenship of the applicant is doubtful, a copy of the U.S. Government document certifying that status must be attached to the application when submitted for processing.

Section 14.025. A Lodge may provide in its By-Laws for a reward to a Member who recruits a new Member if that new Member remains a Member in good standing for at least one Lodge year following Initiation.

Section 14.030. If the applicant receives a number of white balls less than an amount equal to two-thirds (2/3rds) of the votes cast, he shall be declared rejected; but if he receives a number of white balls at least equal to two-thirds (2/3rds) of the votes cast, he shall be declared elected and entitled to initiation at that meeting or at any subsequent meeting within four months.

For the purposes of voting upon an applicant or applicants, a white ball shall be considered an affirmative vote; a black cube shall be considered a negative vote.

STATUTES ANNOTATED

Lodges may by By-Law, designate certain meeting nights, for the purpose of initiation if there are one or more regular meeting nights in each month. If the candidate fails to appear for initiation, without good cause within four months from the date of his election, his right to initiation shall be forfeited, and the Lodge shall not return any portion of the amount deposited by him. Lodges may initiate candidates at a regular meeting or special meeting.

Each ballot box must contain white balls and black cubes substantially equal in number. The Exalted Ruler and Esquire shall see that this provision is enforced.

The Lodge may elect to place the names of all applicants upon one or more ballot boxes rather than a separate ballot box for each applicant. If the number of white balls are at least equal to two-thirds (2/3rds) of the votes cast, all applicants named thereon shall be declared elected; but if the number of white balls are less than two-thirds (2/3rds) of the votes cast, then all applicants named thereon shall be balloted upon separately.

At the same meeting of the Lodge at which an applicant is rejected by a separate ballot, the Exalted Ruler may order a new ballot. If the order is made after passing from the order of business, designated as "Balloting on Candidates," the second ballot for the applicant must be taken at the next regular meeting under the proper order of business. The second ballot shall be final and conclusive. The ballot upon admission of a candidate shall be strictly inviolate. A Member who shall disclose his ballot shall be guilty of an offense.

Upon the written request of a Lodge in which a candidate has been elected, another Lodge may, within the time prescribed by law, initiate candidate for the Lodge making the request.

The Secretary of the Lodge in which the candidate has been elected shall send a copy of the By-Laws of the Lodge to the Secretary of the initiating Lodge with the request to initiate. The Secretary of the initiating Lodge shall obtain from the initiate his written agreement, to support, maintain and abide by the Constitution and Statutes of the Order and the By-Laws of the Lodge for which the Member was initiated, and send it in the next mail to the Lodge requesting the initiation.

• OPINIONS •

01 If there are no black cubes available for use in the ballot box, the ballot is illegal.

02 Upon announcement of the favorable ballot by the Exalted Ruler and destruction of the ballot, a candidate stands elected to membership. Any question regarding the presence of black cubes must be made before the announcement.

03 The record of a ballot when legally taken cannot be expunged from the minutes.

04 A new Member shall pay pro-rated dues based upon the date of his initiation until the

next dues-paying date. Any fractional part of a month shall be treated as a full month.

05 If a new ballot is ordered by the Exalted Ruler after passing from the Order of Business "Balloting on Candidates," verbal notice to the Members present that balloting on the rejected applicant will be reconsidered at the next meeting is appropriate in lieu of any other notice requirements.

06 All initiations of candidates for membership in the Order must be conducted at a regular or special meeting of the Lodge, and should only be held on the floor of the Lodge.

• DECISIONS •

01 Hurriedly and irregularly opening the meeting of a Lodge, taking up “balloting for candidates” as the second order of business and refusing to admit Members under circumstances indicating an intention to deprive such Members of their right to vote, render the balloting illegal and void. (*Grand Forum, Case No. 52, 1911*)

02 A Member may properly be expelled where he has been found guilty of making known the kind of a ballot he was about to cast upon the admission of a candidate for membership in the Order. (*Grand Forum, Case No. 474, 1959*)

03 A violation by an Officer of a Lodge of the secrecy of the ballot is grounds for removal from office. (*Grand Forum, Case No. 479, 1961*)

04 No number or other means of identification should appear on a cast ballot. (*Grand Forum, Case No. 479, 1961*)

05 It is not a violation of Section 14.030

for a Member in good faith, to make known to the Investigating Committee or Members of the Lodge information concerning an applicant’s qualifications or suitability for membership.

It is not a violation of the Laws of the Order for a Member to make the inquiry attributed to the Appellant. A Member who in good faith, believes an applicant unworthy to be a Member of the Order has the duty to make known to the Investigating Committee and the Lodge, if necessary, any information in his possession that would be of assistance in evaluating the qualifications and suitability of the applicant for membership. (*Grand Forum, Case No. 562, 1974*)

See 12.050, Decision 06.

See 14.010, Decisions 01 and 02.

06 To solicit a blackball of an application of a candidate for membership is a Violation of Obligation and of the Laws of the Order, Section 14.030. (*Grand Forum, Case No. 764, 1989*)

Section 14.040. An application for membership may be withdrawn by the proposer in open Lodge, at any time prior to reading the applicant’s name for ballot, unless at least three Members of the Lodge object to the withdrawal.

• OPINION •

01 The withdrawal of an application is in a different category than a rejected one, and the Secretary is under no duty to notify the applicant of such withdrawal as such duty rests upon the proposer who withdrew it.

Section 14.050. After a favorable ballot on an application for membership, and before initiation, if a Member declares in open Lodge that the candidate is unworthy to be a Member stating the grounds to support his declaration, and the source of his information; and if the Exalted Ruler is satisfied that the declaration is made in good faith, the ballot shall, on motion of any Member, be reconsidered, but the grounds for reconsideration must be included in the motion and spread upon the minutes.

After reconsideration, the question, “Shall the election of the candidate be confirmed?” shall then be submitted to the Lodge. If two-thirds of the votes cast are favorable, the election shall stand confirmed; otherwise, the candidate shall be rejected. Discussion upon the motion, and upon the merits of the case, shall be in order.

Every Member of a Lodge present during any balloting for initiation or affiliation, should vote. Failure of any Member to vote shall not invalidate the ballot.

STATUTES ANNOTATED

When a person shall have been elected to membership in any Lodge but shall not have proceeded further, the Lodge shall have jurisdiction over him to prevent another Lodge from receiving and acting upon his application for membership for so long as he remains eligible for initiation into such Lodge.

• OPINIONS •

01 An applicant reconsidered unfavorably under this Section is entitled to a refund of the initiation fee paid.

02 The return of a check given as payment for the initiation fee for lack of funds, between election and initiation is grounds for reconsideration under this Section.

03 If all of the information secured by those investigating is not brought to the attention of the Lodge prior to the balloting, reconsideration under this Section is proper.

Section 14.060. A Lodge by By-Law may limit its membership. Notwithstanding the limitation, at least one candidate, if available, must be admitted to membership by initiation during the months of September through May, inclusive, of each year.

• OPINION •

01 Where a Lodge By-Law limits membership to 750 and that number has been reached, it cannot be required to accept a Transfer Dimit until the regular membership

roll has dropped below 750, since dimitts are handled the same as original applications for membership.

Section 14.070. Each Member after his initiation shall receive a copy of the Constitution and Laws of the Order, a copy of the By-Laws of the Lodge, and a copy of the booklet, "What It Means To Be An Elk."

Section 14.080. A Lodge shall not act upon an application from a Member who resides outside its jurisdiction unless the person holds a transfer dimit.

Should an applicant for membership in the Order desire to join a Lodge which does not have jurisdiction over his residence, he shall file his application with the Lodge of his choice and submit a letter setting forth the reasons for his choice. The Secretary of the selected Lodge shall notify the Lodge of jurisdiction of the receipt of the application and send a copy of the applicant's letter.

The Lodge of jurisdiction within thirty (30) days may waive its jurisdiction, or send a letter setting forth its objections. If the Lodge of jurisdiction fails to respond within thirty (30) days, the waiver of jurisdiction may be presumed and the Lodge of choice shall process the application.

Should the Lodge of jurisdiction make written objection to the applicant seeking membership as aforesaid, the Secretary of the applicant's Lodge of choice shall forward all papers to the Grand Exalted Ruler and request that a dispensation to join the forwarding Lodge be issued.

The Grand Exalted Ruler may grant the dispensation, and the application for membership in the Lodge of choice shall be processed in regular statutory manner, or he may reject the request for a dispensation. The determination of the Grand Exalted Ruler shall be final.

STATUTES ANNOTATED

Section 14.090. No Lodge shall act upon any application of a rejected candidate for the period of six months after his rejection. No other Lodge shall act upon his application without permission of the Lodge which rejected him until he is a bona fide resident within the jurisdiction of that Lodge for a period of six months.

The Grand Exalted Ruler shall have the authority to waive the restrictions herein upon application and for the best interest of the Order.

When a rejected applicant makes another application, it must be read at two successive regular meetings before being referred to the Fraternal Committee.

• OPINIONS •

01 The signer of a petition for dispensation whose name was not acted upon by the committee of approved Elks simply because he was not known to them is not a "rejected candidate." The provision for six months delay is not applicable to him and his application can be received and acted upon by the Lodge immediately in the same manner as any original application for membership.

02 If a candidate for membership who has received a favorable report from the Investigation Committee, and the membership has been notified of his/her candidacy in the

manner required by Section 14.010 of the Laws of the Order, is rejected by the ballot, the Lodge may request from the Grand Exalted Ruler an Executive Order waiving the six-month waiting period before reapplication may be made. If granted, the Lodge after first notifying its membership of the waiver and in compliance with Section 14.090 GLS may hold a new ballot. If the candidate is rejected, the Exalted Ruler may, at that meeting, announce there will be a re-ballot held at the next meeting.

See also 14.010, Opinion 15.

Section 14.100. The jurisdiction of each Lodge over applicants for membership therein shall extend to a line equidistant between the boundaries of the municipalities in which adjoining Lodges are located, disregarding state and territorial lines. However, the Grand Exalted Ruler shall have power to determine jurisdiction by fixing boundaries without regard to equidistant lines, and he shall report his decision at the next annual Grand Lodge Session.

• DECISIONS •

01 The granting of Dispensation to a new Lodge gives that Lodge the same jurisdiction it will acquire when the Charter is granted. (*Grand Forum, Case No. 240, 1924*)

02 Section 14.100 does not authorize the establishment of "open territory" where residents must first submit their applications to the Grand Exalted Ruler, for special dispensation, before being acted upon. (*Grand Forum, Case No. 349, 1931*)

Section 14.110. A Lodge, by action of the Exalted Ruler, shall grant, without fee, either an Absolute Dimit or a Transfer Dimit to a Member in good standing who is not indebted to the Lodge or Club, and shall report such action at the next Lodge meeting. The Member shall:

- (a) Submit a written request for the Dimit.
- (b) Attach his membership card if the request is for an Absolute Dimit.
- (c) Indicate his intention to join an existing Lodge or to sign a petition for Dispensation of a New Lodge if the request is for a Transfer Dimit.

STATUTES ANNOTATED

Upon receiving a Transfer Dimit the Member shall:

- (d) Within thirty (30) days apply for affiliation to the Lodge indicated in his request.
- (e) Remain a Member of the Lodge issuing the Dimit until notified that his affiliation is completed. If the Dimit is valid beyond April 1st the issuing Lodge shall pay the Grand Lodge per capita fees and assessments, subject to reimbursement by the affiliating Lodge upon completion of the affiliation.
- (f) Pay dues to the issuing Lodge until the Lodge under Dispensation is instituted.

The Secretary of the Lodge issuing a Transfer Dimit shall send the dimit to the Lodge to which transfer was requested and notify the Member, requesting him to contact the local Secretary, giving him his name and address.

The Lodge receiving the Transfer Dimit shall act upon the application in the same manner as an original application for membership.

If a Member fails to complete his affiliation within thirty (30) days after his election, the dimit shall be void and the issuing Secretary shall be notified.

Required dues will be paid by an affiliating Member after the expiration date shown on his membership card at the time of granting the dimit.

No Lodge shall act upon an application from a Member holding a dimit, other than one with jurisdiction over his residence, until the Grand Exalted Ruler shall have granted a dispensation therefor under the provisions of Section 14.080; provided that if the Lodge of jurisdiction consents, as provided in Section 14.080, the Lodge selected by the applicant may proceed to process his application without such dispensation. Applicants for affiliation on dimit shall pay the affiliation fee provided for in the By-Laws of the affiliating Lodge.

• OPINIONS •

01 A granted dimit cannot be recalled at a subsequent meeting.

02 The mere handing of a Transfer Dimit to the Secretary of the Lodge with which the Member holding the dimit wishes to affiliate does not constitute the making of an application for membership.

03 The affiliation fee to be fixed by each Lodge in its By-Laws must be specific in amount and uniform in application.

04 Applications for membership made on Transfer Dimit can be withdrawn the same as an original application and in case of a withdrawal no benefits are relinquished by the holder of the Dimit.

Section 14.120. A Member who shall receive an Absolute Dimit, shall become an unaffiliated Member, but shall remain subject to the jurisdiction of the Lodge granting such dimit. In no case shall he become a Member of any other Lodge or Lodge in the process of organization, while holding such a dimit, until notice shall first be given to the Lodge granting the dimit, and a period of thirty (30) days shall elapse before a ballot on the dimit is taken by the Lodge to which application for membership is made.

If a Member holding an Absolute Dimit, continuing to reside in the jurisdiction of the issuing Lodge, desires to affiliate with another Lodge or a Lodge in process of organization or join in a petition for dispensation for a new Lodge in another jurisdiction, he may apply to the Grand Exalted Ruler for a dispensation authorizing such action. The Grand Exalted Ruler may issue a dispensation; provided that if the Lodge of jurisdiction consents, as provided in Section 14.080, the Lodge selected by the applicant may proceed to process his application without such dispensation.

An application for membership by one holding an Absolute Dimit shall be received and acted upon in the same manner as original applications for membership in the Order upon payment of the affiliation fee as may be provided in the By-Laws of the Lodge to which application is made.

• OPINIONS •

01 The holder of a Certificate of Release whose application for affiliation with another Lodge has been rejected, continues to be an unaffiliated Elk subject to the jurisdiction of the Lodge granting the certificate.

02 An Absolute Dimit on which application for affiliation has been rejected should be returned to the applicant. There is no provision requiring a notation of rejection on the Absolute Dimit.

• DECISION •

01 Unaffiliated Elks are not Members in good standing and are not entitled to bring charges against other Members in good standing. (*Grand Forum, Case No. 1100, 2005*)
(See Section 8.015)

Section 14.121. A Lodge to which application for affiliation is made may provide different affiliation fees, by By-Laws, for Transfer and Absolute Dimits.

STATUTES ANNOTATED

Section 14.130. Every Member in good standing in a Lodge is entitled to all the rights and privileges of the Home or Club connected therewith, whether such Home or Club be incorporated or not unless the social privileges of that Member have been suspended pursuant to the Laws of the Order. The control of and membership in such Home or Club, whether incorporated or not, shall be limited exclusively to the Members in good standing in the Lodge establishing the same; provided, however, that the governing body of any such Home or Club may elect, as associate Members, upon terms as it may prescribe and for a limited period of time, Members in good standing of other Lodges of the Order.

Subject to state and local laws, the use of the Home or Club facilities shall be limited to Members in good standing in the Order, their spouses and guests of Members, and those receiving Identification Cards under Section 14.140, as provided in the House Rules, so as to preserve the privacy of the use of such facilities to the Members of the Order. Local Lodges shall take appropriate action to conform to the provisions of this Section.

• OPINIONS •

01 After affiliation, a Member is entitled to all rights and privileges of the Lodge of which he becomes a Member. The matter of affiliation cannot be reconsidered.

02 Except as provided in 14.130, only Members who are not delinquent in the payment of dues are entitled to the privileges of membership in the Order. A Member who is delinquent in the payment of dues is not entitled to use the Club facilities or to attend meetings of the Lodge. (*See Section 14.190 for exception.*)

03 A Member sentenced to suspension or expulsion must be denied the privileges of the Club during the period of his unaffiliation.

04 A Lodge may deny the privileges of its Club facility to all Elks except those in good standing upon its rolls.

05 A Member in good standing is entitled to inspect all Lodge records at reasonable times, including the membership list. (*See Opinion 03, Section 12.050*)

06 Relative to the rights of a Member in good standing when visiting another Lodge and Club rooms maintained thereby, Sections 14.130, 15.050 and 15.060 of the Statutes define the rights of a Member in good standing when visiting other Lodges, and under the same, such visiting Member has all the rights in the Lodge room that Members of the Local Lodge have except those of voting and holding office.

07 An associate Member of a Lodge has the right to use the social quarters as prescribed by the Lodge allowing such membership. The associate Member has no right to vote, hold office or become a member of a committee in the Lodge in which he or she is an associate Member.

08 The word "spouse" as used herein shall be defined by the law of the state in which the Lodge is located.

09 The membership of the Lodge shall have ultimate control over who is granted Associate Member privileges.

• DECISIONS •

01 It is improper to suspend a Member from Club privileges merely because he had received financial assistance, as charity, during a long siege of illness. (*Grand Forum, Case No. 395, 1939*)

02 A Member not in good standing is still an Elk subject to any conditions of his suspension and is still subject to all of the provisions of our Constitution, Laws of the Order and By-Laws. (*Grand Forum, Case No. 1053, 2004*)

Section 14.140. A Lodge may issue without charge, identification cards for use of its facilities only upon the written request of any Member in good standing to:

- (a) A spouse of a Member.
- (b) An unremarried widow or widower of a deceased Member.
- (c) A child or stepchild, under the age of twenty-one (21), of a Member or deceased Member.

The card shall:

- (d) Be signed and sealed by the Lodge Secretary.
- (e) Be signed by the holder of the card.
- (f) Bear an expiration date the same as the expiration date on the membership card of the Member requesting the card.
- (g) Be the same color as membership cards for that year and they may be consecutively numbered.
- (h) Be supplied by the Grand Secretary.
- (i) Show the name of the Member requesting the card.

• OPINIONS •

01 A Member shall not lend his membership card to another. His membership card is not subject to use by anyone other than himself. The Local Lodge may issue identification cards to those entitled thereto.

02 The privileges connected with identification cards mentioned may be restricted by House Rules or By-Laws.

03 It is not mandatory to issue visitor's courtesy or identification cards; they may be canceled at any time by the Lodge or by the person who asked for a card for another.

04 A Member requests issuance of an identification card to one who qualifies under the provisions of this Section. The issuance of the identification card is dependent upon the relationship of the person to the deceased Elk, not to the Member applying therefor.

05 The widow of a deceased Member who remarries loses all rights to a visiting or identification card. Her subsequent divorce and resumption of her deceased husband's surname does not remove her disqualification to receive a card through him.

06 There must be a House Rule permitting the holder of an identification card to enter a Lodge without being signed in by a

Member. An identification card does not itself permit the holder to purchase goods or services in or from the Lodge.

07 Recognition of an official auxiliary by a Lodge does not itself give members of the auxiliary rights of admission to the Lodge facilities for other than auxiliary purposes, unless the auxiliary member has an identification card issued in compliance with Section 14.140, and the House Rules and local laws so permit.

08 Auxiliary cards issued by or for the auxiliary pertain only to the auxiliary, not to the Lodge or Club, and entitle the cardholders only to enter the Lodge facilities for auxiliary meetings and events, and do not entitle them to enter at any other time or for any other purpose.

09 Members of either gender who become unaffiliated Elks (except the non-suspended spouse of a Member or of a deceased Member) may not visit any Lodge's Club, or other facilities. Nor does Section 14.140 allow issuance to them of identification cards.

10 The word "spouse" as used herein shall be defined by the law of the state in which the Lodge is located.

• DECISION •

01 Person holding only a Lodge identification card under GLS 14.140 has no legal standing to appeal to the Courts of the Order

the House Committee suspension of her Lodge privileges to use its facilities. (*Grand Forum, Case No. 1392, 2016*)

STATUTES ANNOTATED

Section 14.150. A Member who has paid his dues, Grand Lodge per capita fees and assessments and State Association dues shall be entitled to a membership card bearing the seal of the Lodge and the name of the Secretary and signed by the Member. A Lodge shall, by By-Law, assess against each of its Members his pro rata share of all Grand Lodge per capita fees and assessments and State Association dues. The membership card shall bear the Member's number. The color of the card shall not be the same in any two consecutive years. Upon payment of Grand Lodge per capita fees and assessments, State Association dues and when provided by the By-Laws of a Lodge, an amount not more than one-half of the regular Lodge dues toward administration expenses, Life Membership Cards shall be issued annually to Life Members, in the same manner and color as regular membership cards for the same year.

(NOTE: See Section 4.231 in re Grand Lodge Insurance Assessment.)

• OPINIONS •

01 The number assigned to a Member by the Lodge at his initiation remains his number in that Lodge forever. The membership card must be issued under his legal name. At the request of the Member the name by which he is usually known in the theatrical profession may be shown in brackets.

02 A Life Member cannot be relieved from the obligation to pay per capita taxes and annual dues imposed by the Grand Lodge.

03 The fees and assessments for Life Members in a Lodge, must be uniform regardless of how the Life Membership was created.

04 If the office of Lodge Secretary is vacant, necessary continuity in the signing and issuance of membership cards and other Secretarial duties should be exercised by an Acting Secretary appointed with full power and authority by the Exalted Ruler until an election can be held.

05 A Lodge is permitted but not required to pass a State Association assessment on to the Members of the Lodge.

Section 14.160. A Member delinquent and owing at least five month's dues to the Lodge shall be dropped from the rolls any time during the month of March each year without the vote of the Lodge thereon. The effective date for dropping the Member shall be not later than March 31, provided the delinquent dues are not paid.

The procedure to drop a delinquent Member shall be as follows:

- (a) Any time during the month of February each year, the Secretary shall give notice as provided in Section 1.115 informing the Member that such Member may be dropped if dues are not paid within 30 days of mailing the notice.
- (b) At the time the Secretary gives notice to the Member, the Secretary shall post a list of all Members given notice on the Lodge Bulletin Board and report the posting of the list at the next Lodge Meeting.
- (c) The notice shall confirm to the delinquent Member that during the period of delinquency the Member is not entitled to the privileges of membership and that in the event of being dropped for nonpayment of dues, the Member can be reinstated only in the manner provided by the Laws of the Order.
- (d) At the first regular Lodge meeting after a delinquent Member is dropped, such action shall be recorded in the minutes of the meeting by attaching a list of the dropped Members thereto.

• OPINION •

01 In addition to the written notice required by this Section, it is permissible to give notice to those about to be dropped for nonpayment of dues in the Lodge bulletin or by posting on the bulletin board.

• DECISION •

01 To strike a Member from the rolls for nonpayment of dues, it is not necessary that charges be preferred against him. The action is administrative and not judicial. (*Grand Forum, Case No. 49, 1911*)

Section 14.170. A Member owing any indebtedness to the Club or Lodge may be dropped from the rolls of the Lodge as provided in this section. At a regular Lodge meeting the Lodge Secretary shall report the alleged indebtedness. The Exalted Ruler shall, at the same meeting, set a hearing and Lodge vote on the matter to be held at a regular Lodge meeting not less than thirty (30) days nor more than sixty (60) days thereafter. The Secretary shall provide the accused Member with thirty days' written notice of the scheduled hearing. If the indebtedness is satisfied prior to the hearing then the hearing shall be canceled. If the indebtedness is not satisfied prior to the hearing then at the hearing evidence may be presented and the Member may be dropped from the rolls of the Lodge upon a two-thirds majority vote of those present at such meeting. The accused may apply for reinstatement in the Lodge upon satisfying the amount of the indebtedness and applying reinstatement in accordance with the laws of the Order. An appeal from such action may be lodged with the Grand Forum within thirty (30) days from said date. In the event of an appeal to the Grand Forum, the Member shall be suspended from participation in Lodge or Club activities.

The Member so dropped for nonpayment of an indebtedness, if a bona fide resident within the jurisdiction of another Lodge, or a Lodge in process of organization, may apply to such other Lodge, or the Lodge in process of organization, to become affiliated therewith, provided he first obtain a Certificate of Release from the Lodge that dropped him from its rolls. The release shall be granted to him upon payment to that Lodge of the amount of his indebtedness to that Lodge plus the sum of ten (10) dollars for the release. The Lodge granting the release shall have the right to make such recommendations as it elects as to the fitness of the applicant for affiliation with that Lodge or Lodge in process of organization.

• OPINION •

01 The word "indebtedness," as used in Section 14.170, does not mean annual dues. It refers to a separate or additional obligation, such as to the club or dining room. In the event of reinstatement, such Member must pay all of such indebtedness, in addition to

reinstatement fee and current dues. A Member dropped under Section 14.160 for nonpayment of dues only, cannot be required on reinstatement, to pay all back dues charged against him, but only the reinstatement fee and current dues.

• DECISIONS •

01 Refusal of a Member to pay his promissory note given in aid in securing a building fund affords ground for preferring charges against him in the Lodge. (*Grand Forum, Moscow vs. general, 1905*)

03 Restitution may not be ordered as a part of a sentence after a finding of guilt; Section 14.170 provides for the collection of indebtedness owed by a Member to a Club or Lodge. (*Grand Forum, Case No. 745, 1988*)

02 A Member who willfully refuses to pay an obligation to a Lodge, accepted by said Lodge in good faith, subjects himself to charges, trial and punishment. (*Grand Forum, Case No. 4, 1908*)

04 A Member is deprived of a substantial right of membership without due process of law when the Lodge seeks to drop him/her from Lodge rolls without first strictly adhering to the requirements contained in Section 14.170. (*Grand Forum, Case No. 1041, 2003*)

STATUTES ANNOTATED

Section 14.180. An unaffiliated Member whose name has been stricken from the Rolls of Membership for nonpayment of dues, shall upon his application, if made within sixty (60) days thereafter, be reinstated as a Member in good standing in the Lodge upon payment of delinquent and current dues. The Secretary shall advise the unaffiliated Member in writing of the date of his being dropped from the rolls and of his right to re-affiliate within sixty (60) days. If the reinstatement is not reported in the annual membership report to the Grand Secretary, the report shall be supplemented and the Grand Lodge per capita and assessments paid. The reinstatement shall not result in the loss of continuous and consecutive membership standing.

After sixty (60) days from the date of being stricken from the Rolls of Membership for nonpayment of dues, an unaffiliated Member may be reinstated upon application being read at a regular Lodge meeting, after being referred to the Fraternal Committee and, upon receipt of their report, voted on at the next regular Lodge meeting, by two-thirds (2/3rds) of the votes cast. Before reinstatement, the applicant shall pay the reinstatement fee, if any, fixed by the By-Laws, and the proportionate share of the current dues.

If the unaffiliated Member is a resident within the jurisdiction of another Lodge, or Lodge in process of organization, he may apply to such other Lodge or the Lodge in process of organization, to become affiliated therewith, provided he first obtain a Certificate of Release from the Lodge that dropped him from its rolls. The release shall be granted to him upon paying to that Lodge the sum of twenty (20) dollars but the Lodge granting the release shall have the right to make the recommendations as it elects as to the fitness of the applicant for re-affiliation with the Order.

An application for membership shall be received and acted upon in the same manner as original applications for membership in the Order and the applicant shall pay the affiliation fee as may be provided by the By-Laws of the Lodge to which application is made, or by the organizing committee of the Lodge in process of organization, which affiliation fee shall be not less than fifteen (15) dollars.

• **OPINION** •

01 A Lodge is not required to return the fee paid to it for a Certificate of Release in the event an application for affiliation with another Lodge is rejected. *See 14.120, Opinion 01.*

Section 14.190. Except for the non-suspended spouse of a Member, an unaffiliated Member shall not be permitted to visit any Lodge. No unaffiliated Member shall join as an Elk in any public procession or display of the Order; or to display or use any emblem of the Order, nor shall he or she receive relief or burial by a Lodge.

• OPINIONS •

01 Once the suspension period has elapsed, the formerly suspended Member automatically resumes the status of an Elk in good standing provided the Member's dues have been kept current.

02 Members of either gender who become unaffiliated Elks (except the non-suspended spouse of a Member) may not visit any Lodge's Club or other facilities, nor does Section 14.140 allow issuance to them of identification cards.

03 The exception permitting visitation of a Lodge by a non-suspended spouse, or a

delinquent Member spouse, means that the non-suspended or unaffiliated spouse is treated as if he or she were never a Member.

04 An unaffiliated Member may be on the premises of the Lodge to perform contractual services, but cannot avail himself/herself of the privileges of the bar or restaurant in any way or manner.

05 The word "spouse" as used herein shall have the meaning as ascribed to such word by the law of the state in which the Lodge is located.

• DECISION •

01 An Elk who is suspended from membership in the Order after due trial becomes an unaffiliated Elk and is not permitted to visit any Elks Lodge during his period of suspension. (*Grand Forum, Case No. 749, 1988*)

Section 14.200. A Member who has been expelled shall not thereafter be regarded as an Elk unless restored to membership in the Order by pardon. An expelled Member shall not be permitted to visit any Lodge. No expelled Member shall join as an Elk in any public procession or display of the Order; or to display or use any emblem of the Order, nor shall he or she receive relief or burial by a Lodge.

Section 14.210. No Member shall be a member of any Club, Home or Organization bearing any name, title or emblem of the Order, which is not connected with a Lodge of the Order, and conducted and controlled in accordance with the Laws of the Order.

• DECISION •

01 Officers or Members of a Lodge cannot establish a Club. A Club can be established only by a Lodge. (*Grand Forum, Case No. 27½, 1910*)

Section 14.220. A Lodge may exclude from participation in its charity fund those Members indebted to the Lodge in an amount equal to one year's dues.

STATUTES ANNOTATED

Section 14.230. Members of a suspended or dissolved Lodge, who were in good standing and without fault at the time of its suspension or dissolution, may apply for membership in any Lodge in whose jurisdiction they reside. They may receive a Certificate of Status from the Grand Secretary. The certificate gives to the holder thereof only the right to apply in that Lodge for membership.

The certificate when presented shall be acted upon in the same manner as an application upon a dimit as provided in Section 14.110.

A Member suspended for any cause shall, after the period of his suspension, in the event of dissolution, surrender or forfeiture of the Charter of such Lodge, be permitted to make application to the Lodge in whose jurisdiction he resides, for admission therein as provided in Section 14.250.

• OPINION •

01 A former Member of a dissolved Lodge holding a Grand Lodge Certificate of Status cannot apply for membership in a new Lodge about to be instituted in the jurisdiction of the dissolved Lodge unless he is a resident within said jurisdiction.

Section 14.240. If the Grand Secretary refuses to issue a Certificate of Status, under the provisions of Sections 14.230 and 14.250, the Grand Lodge upon proper petition from the applicant may review the action, and may grant or refuse the Certificate.

Section 14.250. Members of a suspended or dissolved Lodge, who by reason of nonpayment of dues were not in good standing or had been stricken from the rolls of the Lodge at the time of its suspension or dissolution, may apply for membership in a Lodge in whose jurisdiction they reside. Their applications shall be made under the laws governing applications for affiliation on dimit. The applications shall be accompanied by a Certificate of Status similar to the Certificate provided for in Section 14.230 and they shall pay the Grand Secretary a fee of ten (10) dollars.

• OPINION •

01 A Member dropped from a Lodge which has dissolved may apply for membership in the Lodge in whose jurisdiction he has resided the last six months. His application must be accompanied by a Certificate of Status.

Section 14.260. By an affirmative secret ballot of two-thirds of those present at a regular Lodge meeting, a Member in good standing may be elected to a Life Membership when he has:

- (a) Paid to a Lodge or Lodges required annual dues for a period of not less than thirty (30) years preceding his election, and he has attained the age of not less than sixty-five (65); or
- (b) Paid in advance an amount at least equal to the greater of six hundred (600) dollars or twenty-five (25) times the annual dues of the Lodge.
- (c) The Exalted Ruler shall set a date for the election which is not later than the third regular meeting after the nomination. All Members shall be sent notice of the election at least ten (10) days prior to the date of the meeting at which the vote shall be taken.
- (d) A rejected nomination shall not be presented again until at least one year after the negative vote.
- (e) Upon transfer, by dimit, a Member holding a Life Membership under this Section, in a Lodge of the Order, may request a transfer of his Life Membership from that Lodge to his Lodge of residence. Such transfer, including the Life Membership, shall be granted if approved by an affirmative vote of two-thirds (2/3rds) of those present at a meeting of the Lodge of residence. Upon approval he shall have all of the rights and privileges of a Member in good standing in the Lodge of residence.
- (f) A Member in good standing who held a Life Membership under this Section in a Lodge whose charter has been revoked or surrendered may request that his new Lodge of residence grant him Life Membership. Such Life Membership may be approved by an affirmative vote of two-thirds of those present at a meeting of the Member's new Lodge of residence.
- (g) For purposes of calculating years of membership under this section, the first year of membership or any part thereof shall be deemed a full year.

• OPINIONS •

01 Granting of a Life Membership to a Member who is qualified to apply therefor under 14.260 is not automatic. The application must be formally presented to the Lodge and a favorable vote gained thereon.

02 It is not proper to withhold voting upon an application for Life Membership for indefinite periods. An application must be handled as expeditiously as possible and when set for ballot, a motion to postpone the ballot for an indefinite or unreasonable time is out of order.

03 A Lodge is without power to confer either Life Memberships or Honorary Life Memberships upon a group of its Members, but must act on each proposition separately. Any action to the contrary is null and void.

04 Although some of a Member's dues may have been remitted by the Lodge as relief, the years represented are still credited for all applicable purposes in the Lodge in

the same manner as if the Member had paid the amount personally.

05 For purposes of qualifying for election to Life Membership, the Member of a merged or consolidated Lodge shall be considered to have been a Member of the "current Lodge" under Section 14.260(a).

06 A Lodge may establish a limit on the number of Life Memberships it may grant based either on a percentage of its Membership as of a specified date, or on a designated number, provided that no Life Member shall lose their status as a result of a decline in the Lodge Membership.

07 A Lodge is prohibited from charging an application fee for Life Member applicants.

08 Life Member status is lost by Absolute Dimit or expulsion, and would not automatically resume should the Member return to good standing.

STATUTES ANNOTATED

Section 14.270. By an affirmative secret ballot of two-thirds of those present at a regular Lodge meeting, a Member in good standing may be elected to an Honorary Life Membership for distinguished services to the Lodge or to the Order. Mere service as a Lodge Officer or Committeeman shall not be considered as sufficient distinguished service. In bestowing this honor the following procedure shall be followed:

- (a) A written nomination setting forth the distinguished services rendered.
- (b) The Exalted Ruler shall set a date for the ballot on the nomination which shall be not later than the third regular meeting after the nomination.
- (c) All Members shall receive notice of the balloting sent at least ten (10) days prior to the date on which the vote will be taken. The notice shall contain the full text of the written nomination.
- (d) A rejected nomination cannot be presented again within a period of one year of the date of rejection.

• OPINIONS •

01 Service as Exalted Ruler does not of itself constitute “distinguished services.” It is possible that one Past Exalted Ruler might have rendered “distinguished services” during his term as Exalted Ruler which would make him eligible for nomination for an Honorary Life Membership while others did not do so. Each case must be considered on its merits.

02 The payment of dues to a Lodge for a long period of years does not constitute “distinguished services” authorizing the granting of an Honorary Life Membership. A Member holding a Life Membership may be elected an Honorary Life Member.

03 That one was a District Deputy and served well would not, alone, entitle him to Honorary Life Membership under this Section. To gain Honorary Life Membership

must involve something above and beyond doing an official job well.

04 Distinguished services rendered in the military service of our country or high political office do not constitute “distinguished services rendered to the Lodge or Order,” and therefore should not be the basis for granting Honorary Life Memberships in the Order.

05 A Life or Honorary Life Member who has been dropped for nonpayment of dues regains the Life/Honorary Life status automatically upon reinstatement in the same Lodge where dropped. However, Honorary Life Member status is lost by Transfer or Absolute Dimit or expulsion, and would not resume should the Member return to good standing on the rolls of the Lodge originally granting that status.

• DECISIONS •

01 A Lodge is without power to confer on a Member an Honorary Life Membership except for distinguished services rendered to the Lodge or to the Order by such Member. It is the intention of the Law that Honorary Life Membership is to be conferred by the Lodge upon a Member only when the Member has rendered to the Lodge or to the Order services which are in truth and in fact distinguished, that is, marked or notable, in that by performance of such services, he has become preeminent among his fellows and thereby entitled to great honor and to special reward. (*Grand Forum, Case No. 354, 1924*)

02 It is a well established rule of our Order that a Lodge is without power to grant an Honorary Life Membership except in the manner authorized in said Section 14.270 and that service as a Lodge Officer does not of itself constitute “distinguished services.” However, when the procedure provided in said Section is followed, the decision as to whether the meritorious services recited in the written nomination are “distinguished” is solely within the discretion of the Lodge, provided the nomination contains a recital of services within that classification. (*Grand Forum, Case No. 415, 1947*)

STATUTES ANNOTATED

Section 14.280. The Lodge By-Laws must contain a provision for granting of Life Memberships before nominations may be considered.

All holders of Life Memberships shall continue to pay Grand Lodge per capita fees and any additional amounts as set forth in Section 14.150.

Section 14.290. The Lodge initiation fee, if any, shall be fixed by its By-Laws. A Lodge shall return any initiation fee of a rejected applicant.

• OPINIONS •

01 Whenever a Lodge strikes from its rolls of membership the name of a person because said person was illegally elected and initiated, it is the duty of the Lodge to return to such person the initiation fee he paid.

02 If a candidate is elected to membership and after reconsideration the Lodge votes

against confirmation the applicant is entitled to the return of the initiation fee paid.

03 Under Section 14.290 the Secretary should notify rejected applicants of the fact, returning any initiation fees paid, but retaining the application for the Lodge records.

Section 14.300. All annual dues shall be uniform as to each and every Member and paid at least semiannually in advance of April 1st and October 1st. A Member may at his election pay one year's dues in advance as of April 1st in any year. A Lodge by proper amendment to its By-Laws may require the payment of dues yearly in advance of April 1st in any year. The annual dues shall be fixed by the By-Laws at a specified dollar amount. In addition thereto each Member shall pay the following: *a*) all Grand Lodge per capita fees and assessments; *b*) State Association dues. By-Laws relating to annual dues shall not be subject to amendment unless the amendment be effective as of April 1st following the adoption of such amendment. All statements for dues, sent out by the Lodge, shall include thereon the annual subscription fee for *The Elks Magazine*. All statements for annual dues shall be on the official form prepared by the Chairman of the Committee on Judiciary (*See Appendix XI*).

• OPINIONS •

01 A motion that all Lodge Members must make a donation for any purpose is clearly out of order. No Member can be compelled to make a donation, or be assessed any sum other than his annual dues and fees.

02 A Lodge cannot levy a special assessment for a charitable project or special activity. Proper procedure is to amend the By-Laws and increase the Lodge dues. The Lodge may by budget designate specific sums for such purposes.

03 The regular Lodge dues shall not include Grand Lodge per capita fees and assessments and State Association dues.

04 Lodges that permit payment of membership dues or fees by credit or debit card are not permitted to assess those Members any processing fees.

05 It is permissible for a Member to pay a processing fee to a third party for Lodge dues paid by credit card, debit card, PayPal or other means.

STATUTES ANNOTATED

Section 14.310. A Lodge may provide in its By-Laws for the waiver of the Lodge dues of any Member who is sick or in distress, and may further provide for the waiver of the dues, initiation fees or reinstatement fees of any Applicant or Member who is serving as a member on active duty in a branch of the Armed Forces of the United States, or who has separated from active duty during the preceding twenty-four months by virtue of retirement or the receipt of an Honorable Discharge.

• OPINIONS •

01 Dues of any Officer may not be waived as a consideration for services rendered.

02 The power to waive dues is given to the Lodge only, and not to any Officer or Committee.

03 Where a Member voluntarily pays his dues for a full year, he cannot secure a waiver of a portion of his dues from the Lodge from which he is seeking a Transfer Dimit.

04 A Lodge cannot waive the dues in whole or in part of members of its band in recognition of their services. On the other hand, a Lodge may pay the members of its band for

services rendered to the Lodge. The amount which shall be paid may be any amount agreed upon not in excess of reasonable compensation for the services rendered.

05 The waiver of dues, initiation fees or reinstatement fees under this Section does not relieve the Lodge from the payment of Grand Lodge assessments and fees, as well as State Association dues and assessments.

06 A Lodge may choose to waive the dues, initiation fees or reinstatement fees of certain military applicants or Members, it may not choose to merely reduce these amounts.

Section 14.320. The period of suspension from membership, club privileges, or the ability to serve as an officer of a Lodge, shall not run during the time in which a Member is delinquent in the payment of dues, but shall resume after reinstatement.

— CHAPTER 15 —

LOCAL LODGE MEETINGS

Section 15.010. The Officers of the Lodge shall be those named in the Constitution. No Lodge shall create any additional office. The Exalted Ruler, Esteemed Leading Knight, Esteemed Loyal Knight, Esteemed Lecturing Knight, Secretary, and Treasurer shall be elected annually; all other Officers, except Trustees, shall be appointed annually by the Exalted Ruler. A Lodge may elect not less than three and not more than five Trustees, and one member of the Board of Trustees is to be elected annually. The number of Trustees of both incorporated and unincorporated Lodges shall be in conformity with state laws governing their respective structures. At the first election in any Lodge the Trustees shall be elected for terms of one, two, three, four or five years, so that one Trustee shall retire from office each year. Officers shall have the powers that are provided in the Constitution, Laws and Ritual, shall perform other duties as pertain to their positions, and shall hold their respective offices until their successors have been elected or appointed and installed. No Member may simultaneously hold more than one office in the Lodge, elective or appointive.

The Officers shall rank in the order named in the Constitution. In the absence of the Exalted Ruler or his designee, the Officer next in rank shall organize the Lodge, and designate the Member(s) who shall serve during the meeting, or until the absent Officer(s) appears.

STATUTES ANNOTATED

Neither the Grand Exalted Ruler nor the District Deputy shall preside at a meeting of the Lodge except during ceremonies of installation or institution, or while exemplifying standard work. On request of the Exalted Ruler, a Past Exalted Ruler may preside over the Lodge meeting. On request of the Exalted Ruler, a visiting Exalted Ruler or Past Exalted Ruler may preside; other visiting Officers may assist, during the ceremony of initiation.

• OPINIONS •

01 An acting Exalted Ruler does not have the authority to appoint or discharge committees.

02 The number of Trustees determines the number of years for which a Trustee is elected annually.

03 Every Member in good standing is eligible to run for any office in the Lodge subject to the possible limitation in Section 3.080.

04 Any Officer in the Lodge may run for any other office in the Lodge without resigning his office. His installation in the new office will automatically vacate his former office.

05 A By-Law which provides that the outgoing Exalted Ruler shall serve on the Board of Trustees is void.

06 Officers continue in office until removed or until their successors are installed.

07 A Lodge, by By-Law or resolution, may not provide for compensation of any kind to any Lodge Officers, except the Secretary, Treasurer, Tiler and Organist.

08 An Exalted Ruler is permitted to allow a visiting Exalted Ruler or any Past Exalted Ruler to preside, or occupy a vacant Officer chair, at a Lodge meeting.

Section 15.020. The Order of Business must be as follows, with the exception of items *(i)* through *(q)* and *(d)*, which may be transposed with the consent of the Lodge.

- (a)* Opening.
- (b)* Calling roll of Officers.
- (c)* Reading minutes of previous meeting.
- (d)* Initiation
- (e)* Sickness and distress (always in order).
- (f)* Community Activities.
- (g)* Reports of Committees (by seniority).
- (h)* Report of the Fraternal Committee.
- (i)* Reading communications.
- (j)* Propositions for membership.
- (k)* Balloting on candidates.
- (l)* Unfinished business.
- (m)* New business.
- (n)* Good of the Order.
- (o)* Bills against the Lodge.
- (p)* Receipts of the Lodge.
- (q)* Treasurer's report.
- (r)* Closing.

STATUTES ANNOTATED

• **OPINIONS** •

01 A motion to dispense with the reading of the minutes is out of order.

02 All items in the Order of Business must be used at a regular meeting. At a special meeting *(a)*, *(b)* and *(r)* must be used plus the appropriate order of business to cover the purpose of the special meeting. Items *(h)*, *(j)* and *(k)* can only take place at a regular meeting. The Emblem must be placed on the altar at all meetings as part of the Opening Ceremony.

03 Members can enter and leave the Lodge under all items in the Order of Business, except *(a)*, *(c)*, *(d)*, *(k)* and *(r)*.

04 Newly-initiated Members may participate in any vote taken after their initiation. Notice requirements are not required for them as they are at the meeting.

05 Where the law requires a specified percentage vote of those present at the meeting, abstentions are considered as negative votes.

06 Under “Receipts of the Lodge,” the Secretary should report all monies received since his last report.

07 A motion to rescind must be carried by a two-thirds vote of those present at the meeting, not the entire membership. A motion to rescind is out of order if it proposes to undo an action which the Lodge cannot undo because the affected party has been notified of the result of the original motion.

08 In the Order of Business “Calling Roll of Officers,” the names of the Trustees should be called.

Section 15.030. Questions arising on points of order in Lodges, shall, in the first instance, be decided by the Exalted Ruler. Any Member shall have the right of appeal to the Lodge; a two-thirds (2/3rds) vote is required to overrule the decision of the Exalted Ruler.

• **OPINIONS** •

01 If the chair did not permit further debate upon the call for the previous question by only one Member and no appeal was made on the ruling, an objection cannot thereafter be made.

02 All corporations, trusts and other related legal entities, regardless of when organized, are subject to the relevant provisions of this Section, and must comply with all applicable provisions of the Laws of the Order.

Section 15.040. No Member shall be admitted to or excused from a Lodge room during the opening ceremonies, reading of the minutes, while a ballot is being taken upon an application for membership, during initiation, or the closing ceremonies.

• **OPINION** •

01 The ballot on an application is not necessarily void if a Member is permitted to enter or leave during the balloting.

Section 15.050. A Member must exhibit his membership card to the Tiler, or Inner Guard before being admitted to his own or any other Lodge. If he is unable to present his membership card to the Tiler of his own Lodge, he shall be admitted if the Secretary informs the Tiler, through the Inner Guard, that his dues are paid to date.

A Member losing his card, shall have a duplicate issued to him.

STATUTES ANNOTATED

Section 15.060. No Member of a Lodge has a right to visit another Lodge without its consent. When visiting another Lodge, he must present his membership card and pass an examination. When a qualified visiting Member is announced in the anteroom the Exalted Ruler shall direct the Esquire to make the proper examination. If the visitor be entitled to admission, he shall be admitted.

• OPINION •

01 This provision is applicable only to Lodge meetings, *see* [GLS 14.130, Op. 04]. However, this Section cannot be used as the

basis to prohibit the attendance of any representative of the Grand Exalted Ruler while on official business.

Section 15.070. Lodge By-Laws shall provide for a regular meeting monthly except in February, March and April when a minimum of two regular monthly meetings are required. Lodges may elect to hold more than one regular meeting in any month or months provided the By-Laws designate the specific days and months for all meetings. The Grand Exalted Ruler or the District Deputy may grant a dispensation to omit or reschedule a regular meeting except during the month of February. A regular meeting may be rescheduled upon five days' notice to all Members of the Lodge.

Special meetings may be called by the Exalted Ruler upon three days' notice to all Members of the Lodge. The notice shall state the special business to be considered; no other business shall be considered or transacted. Notwithstanding the provisions of Section 1.115, if a special meeting is called for the sole purpose of Initiation, any required notice may be made by posting on the Lodge bulletin board provided all candidates participating have been elected to membership and no other business is conducted at the special meeting. No Lodge meeting shall be held outside the jurisdiction of the Lodge, without the prior written consent of the Grand Exalted Ruler.

• OPINIONS •

01 The District Deputy cannot give permission to dispense with a specific Order of Business.

02 The Grand Exalted Ruler cannot issue a dispensation to hold a meeting on a day different than that set forth in the By-Laws, but may authorize the holding of a meeting outside the Lodge jurisdiction for a specified number of meetings or until a specified date.

03 A By-Law may provide that a regular meeting falling on a holiday will be held the same day the following week. It could also provide for a change of the hour by vote of the Lodge at the previous meeting with proper notice to the Members.

See 15.020, Opinion 02.

04 The fact that a regularly scheduled Lodge meeting falls on a National holiday does not, in and of itself, excuse a Lodge from complying with all of the requirements of this Section including, but not limited to, the requirement that it hold at least two regular Lodge meetings a month except as otherwise permitted by this Section.

05 A Lodge receiving a dispensation granted hereunder shall still hold the minimum number of monthly meetings required by this Section.

Section 15.080. Unless otherwise expressly directed by Law, all votes cast by Members of a Lodge shall be by the usual voting sign of raising the right hand, except that a Lodge by majority vote may choose to have a particular vote taken by secret ballot.

(See “VOTING REQUIREMENTS GUIDE” in Appendix I.)

Section 15.090. The possession or consumption of alcoholic beverages at any regular or special meeting of a Lodge or at any statutorily required Special Services held within the Lodge is prohibited.

— CHAPTER 16 — LOCAL LODGE OPERATIONS

Section 16.010. As of April 1 of each year the membership portion of the Lodge Annual Report shall be filed electronically by the Grand Secretary. Each Lodge Secretary shall insure that all Lodge membership information is current through March 31.

The charity portion of the Lodge Annual Report as of March 31 and payment of Grand Lodge per capita fees and assessments shall be transmitted to the Grand Secretary and paid by each Lodge on or before May 1.

If a Lodge fails to transmit any portion of the Annual Report or related payment in a timely fashion, it shall be subject to a fine of one hundred dollars (\$100.00) payable to the Grand Secretary. Failure to provide any portion of the Annual Report or required payments to the Grand Secretary shall constitute contumacy.

• OPINIONS •

01 Unless there is some prohibition in the By-Laws, Grand Lodge special assessments may be paid out of the general funds of a Lodge in the same manner as other bills against the Lodge are paid, without any special notice to the Members and upon a majority vote of those present.

02 A Local Lodge must pay Grand Lodge

assessments on delinquent Members until they have been formally dropped from the rolls.

03 A Lodge must collect from new and reinstated Members, the prorated portions of Grand Lodge assessments and fees, as well as State Association dues and assessments. These monies shall be promptly remitted to the Grand Lodge and respective State Association.

Section 16.011. Use of restricted funds by a Lodge shall be governed by the following provisions:

- (a) A Lodge which holds Restricted Funds because of donor designation shall not expend, borrow from, or borrow against any of such property for a purpose or during a period other than that designated without the written authorization of the donor, or pursuant to an order from a court of competent jurisdiction.

(b) A Lodge which holds permanent Restricted Funds because of Lodge designation shall not expend, borrow from, or borrow against any of such property for a purpose or during a period other than that designated without the written authorization of the State Sponsor, and two-thirds (2/3rds) approval by the Members present at a regular Lodge meeting following a minimum ten (10) day notice to all Members. Any such expenditure shall also be in compliance with all applicable State and federal laws.

Section 16.020. A Lodge may incorporate under the laws of the state or territory wherein it is located. The Articles of Incorporation must be approved by the Committee on Judiciary prior to filing with the state authority.

A proposal to incorporate a Lodge shall be made in writing and filed with the Lodge Secretary. At the first Lodge meeting after the receipt of the proposal the Exalted Ruler shall fix a date for a vote on the proposal which is not less than two (2) nor more than eight (8) weeks thereafter. The Secretary shall mail a notice of the proposal to each Member at his last known address. The notice shall be mailed at least ten (10) days prior to the date on which the vote is to be taken. A majority vote of those attending will bind the Lodge unless the Statutes of that State require a different number in which event the State law shall govern.

Whenever a Lodge shall incorporate, the voluntary association shall merge into the corporation.

When a Lodge votes to incorporate it shall pass a resolution authorizing and directing the proper Officers of the Lodge to convey all of its property, real and personal, held in trust or otherwise, to the new corporation and the passage of the resolution shall be a condition precedent to its incorporation.

It is the purpose and intent hereof to enable any Lodge by incorporating to own and operate its Home, embracing both Lodge and Club, without altering or impairing in any manner the character of the Lodge as set forth from time to time by the Grand Lodge.

The Officers and Committees of all Lodges, whether incorporated or not, shall be designated by the same names or titles and shall possess the same functions and powers, as now obtain, or as may from time to time be provided by the Grand Lodge. The Chief or Presiding Officer of such corporation shall be the Exalted Ruler of the Lodge and shall be designated as such in the corporation and all other Officers of the corporation shall be the respective Officers of the Lodge and shall be known by their respective Lodge titles. All Lodge Members in good standing shall be members of the corporation. An incorporated Lodge may make provision for a Board of Directors which shall be designated in accordance with the requirements of the corporation laws of the State or Territory in which such Lodge is situated and which shall be composed of the four Chair Officers of the Lodge and the Trustees, and which shall be vested with the powers and duties conferred upon the Board of Trustees by the Laws of the Order, including, but not limited to, Section 12.070.

STATUTES ANNOTATED

The incorporation of a Lodge shall not alter or change the fact that the Lodge shall be governed and controlled by the Members thereof, whether shareholders or not, in contradistinction to the usual method of incorporation ownership and control by its stockholders or shareholders.

The names of the elective Officers of the Lodge may be used and employed as petitioners in procuring such Charter.

The kinds and amount of stock, or other securities to be issued, shall depend upon the requirements and exigencies of each individual corporation, and the local laws and conditions governing the same, all subject to the Laws of the Order and the approval of the Chairman of the Committee on Judiciary.

The name and style of said corporation shall include the full name of the particular Lodge so incorporating, to-wit: “_____ Lodge No. ____, Benevolent and Protective Order of Elks of the United States of America.”

This Section is not obligatory upon Lodges where the incorporation laws of the state irreconcilably conflict herewith, nor shall this Section be construed to require the reincorporation of Lodges incorporated prior to 1914.

(See Appendix VI of Annotated Statutes for suggested incorporation forms.)

• OPINIONS •

01 Under this Section all Lodge meetings are “official” meetings of the corporation and any action regularly taken is legally effective and binding.

02 When a Lodge is incorporated under the provisions of Section 16.020, the Board of the Corporation, composed of the four chair officers and the trustees of the Lodge, are vested with the powers conferred upon the Board of Trustees of the Lodge by the Laws of the Order and are required to exercise all

powers conferred upon the Board of Trustees of an unincorporated Lodge. Thus, the By-Laws of the incorporated Lodge should provide that the Board of the Corporation shall perform all duties of the Board of Trustees.

03 An incorporated Lodge shall establish its Managing Body in accordance with the Laws of the State in which the Lodge is located. If State Law requires a Lodge to be managed by a Board of Directors, said Board shall assume the duties of the elected Lodge Trustees.

• DECISION •

01 A Lodge, incorporated under state laws, must comply with the state law in relation to its duties under state laws. Where state law permits, it must comply with the Statutes of the Grand Lodge or be placed under pain and penalty of a forfeiture of its Charter from the Grand Lodge. Under the New York statute an amendment of the State Charter of Brooklyn Lodge No. 22, providing for a reduction of

the number of its Trustees to three, does not deprive existing Trustees of office until the termination of the time for which they were elected. No successor to present Trustees shall be elected until after process of elimination and the election of Trustee’s successor shall maintain the number of Trustees at three. *(Grand Forum, Case No. 7, 1909)*

Section 16.030. The Lodge may, if it chooses, form a separate corporation for any club, home real property or other facility owned by the Lodge. If allowed by State law, Membership in the corporation shall at all times consist of the elective officers (including Trustees) of the Lodge, together with four (4) additional persons who are Members of the Lodge. These four additional Members shall be elected by the remaining Corporate Members and shall be members for one year periods. If the issuance of stock is required by State law, the separate corporation shall issue one (1) share of stock, which shall be issued to the Lodge. Upon issuance, the stock certificate shall be delivered to the Lodge Secretary.

All corporate powers of a non-profit corporation shall be exercised by a Board of Directors, to be seven (7) in number, who shall be corporate members, and who shall serve for one year, and until their successors are elected and qualified.

All corporate powers of a for profit corporation shall be exercised by a Board of Directors, to be seven (7) in number, and shall consist of four (4) elected Officers of the Lodge and three (3) members of the Lodge at large, elected by the Lodge and who shall serve for one year, and until their successors are elected and qualified.

The Corporate Officers shall be elected from the Board of Directors and shall consist of a President, Vice President, Secretary and Treasurer, to be elected annually by the Board of Directors. The President and Secretary shall not hold more than one office in the corporation.

The books and records of such corporation shall at all times be subject to inspection by the Grand Lodge of the Order.

It shall be the duty of the corporation to present to the Lodge for approval, not later than the final regular Lodge meeting in April, a separate and comprehensive budget for the proposed operation of the corporation. The corporation shall also submit a monthly written report to the Lodge showing the financial condition of the corporation and the condition of the budget relating to the same.

Upon dissolution of a separate corporation, trust, or other related legal entity, which consists of member(s) as opposed to stockholder(s), all property owned, held or controlled by it shall be transferred and distributed by its Board of Directors to the Lodge or other non-profit organization, fund, corporation or trust forming a part of or controlled by the Benevolent and Protective Order of Elks of the United States of America.

No Articles of Incorporation, trust agreement, formative documents, or By-Laws or any amendment thereto of a separate corporation, trust, or other related legal entity shall take effect unless submitted to and approved by the Committee on Judiciary.

A separate corporation, trust, or other related legal entity shall be subject to and comply with the provisions of Sections 1.165, 16.011, 16.030, and 16.050 in all matters applicable thereto and the Laws of the Order and the formative and governing documents of such an entity shall require such compliance, regardless of when formed.

(See Appendix VII of Annotated Statutes for suggested incorporation forms.)

• OPINIONS •

01 A corporation, which is merely a holding company, may by deed transfer its property to the Lodge, and then be dissolved under state law.

02 All corporations, trusts and other related legal entities, regardless of when organized, are subject to the provisions of this Section, and must comply with all applicable provisions of the Laws of the Order.

03 A separate corporation must comply with the Laws of the Order, therefore, the formation of a separate corporation must be proposed and voted upon in the same manner as the incorporation of a Lodge.

See Section 16.020.

04 Upon revocation, suspension, or voluntary surrender of a Charter, all Lodge assets and those of all Lodge-related entities must be surrendered to the Trustees or agent appointed by the Grand Exalted Ruler. At the time a Lodge becomes Chartered, they expressly agree to abide by and act in accordance with the Constitution, Statutes, and Rules of the Order, including disposition of assets under Section 9.170. A Lodge exists pursuant to Grand Lodge Charter and all property and assets it acquires, real and personal, are held in constructive trust.

STATUTES ANNOTATED

Section 16.040. The club, social parlor or other facility established in connection with the Lodge, whether the Lodge is incorporated under the provisions of Section 16.020 or is unincorporated, shall be managed, supervised and controlled by one of the following methods:

- (a) By the Board of Directors (or a Board of Trustees if required by State Law) of a corporation formed under Section 16.020 or the Exalted Ruler, Esteemed Leading Knight, Esteemed Loyal Knight, Esteemed Lecturing Knight, and the Trustees of the Lodge; *or*
- (b) By the Trustees of the Lodge; *or*
- (c) By a House Committee (of not fewer than 3 or more than 13) to be appointed by the Exalted Ruler of the Lodge (the exact number must be set forth in the By-Laws); *or*
- (d) By the Board of Directors of a corporation formed under Section 16.030.

The method of supervision or management of the club, social parlor or other facility herein provided for, to be adopted by the Lodge, shall be specified in the Lodge By-Laws, which shall expressly provide that the actions and decisions of the supervising or managing body provided for therein shall at all times be subject to the control and direction of the Lodge; except those actions and decisions pertaining to an employment relationship and the fixing of prices for goods and services.

It shall be the duty of the supervising or managing body of the club, social parlor or other facility, to present to the Lodge for approval not later than the final regular meeting of the Lodge in April of each year, separate and comprehensive budgets for the proposed operation of the club, social parlor or other facility. Each supervising or managing body shall submit a monthly written report to the Lodge showing the financial condition of the club, social parlor or other facility with a comparison to each budget item.

No member of the supervising or managing body shall be employed in any capacity by the supervising or managing body, nor shall any Exalted Ruler be employed by a House Committee appointed by him.

The supervising or managing body of the club shall hold at least one regular meeting each month and needed special meetings called by the Chairman. They shall keep minutes of each meeting of the supervising or managing body of the club. The Exalted Ruler shall be given the same notice of all meetings of the supervising or managing body of the club, and in the same manner, as is given to the other members of the supervising or managing body of the club.

• OPINIONS •

01 Funds derived from club operations are Lodge funds. The Lodge Treasurer is Treasurer for all Lodge Committees and shall handle all Lodge funds and pay all bills on

vouchers approved by the Exalted Ruler and Secretary. Whoever is in charge of the club, should keep accurate daily records and prepare vouchers for payment as stated above.

02 A governing body of the club facility can expend funds only with the approval of the Lodge, and only when same is included in the budget.

03 The governing body may employ a manager, who need not be a Member of the Order, whose employment ends upon expiration of the term of the governing body. The succeeding governing body determines his re-employment.

04 While the governing body of the club facility may not contract to employ a manager for more than one year, the Lodge itself may expressly authorize a contract of employment by the Committee for a term of more than one year. The resolution should specify the term, salary, duties and basic essentials for the contract.

05 All members of the governing body must be notified of all of its meetings, unless the meeting times are set by By-Law. Any action taken at a special meeting where notice was not given to all Members is voidable.

06 The appointed House Committee, not the Trustees (or Board of Directors as may be applicable), operates the club facility. The Trustees (or Board of Directors as may be applicable), under budgeted items, keep up and maintain the physical plant, building, plumbing, repairs, insurance, decorating, etc. Both groups are subject to Lodge direction and control.

07 Neither the Officers, Trustees (or Board of Directors as may be applicable), governing body nor any other representative or body, can enter into a contract with a union unless specifically so authorized by direct Lodge action.

08 A House Rule is valid which permits only Elks in good standing the use of the home and club facility. Provision need not necessarily be enacted in By-Law.

09 Where the Lodge operates a club facility under a House Committee form of government, the Committee has power to purchase supplies for the club, subject to the control of the Lodge. The provision that the Trustees (or Board of Directors as may be applicable) shall purchase all supplies does not control in this instance.

10 If the House Rules do not set the hours during which the club will be open, the governing body may set the hours.

11 The Lodge may limit or define the powers and duties of the governing body so long as there is no conflict with the Laws of the Order or the By-Laws.

12 A motion to hire or discharge a club manager is clearly "out of order" as the Lodge has no control or direction over employment relationships.

13 When the By-Laws of an unincorporated Lodge provide for the management of the club by the Chair Officers and Trustees, the Exalted Ruler, by virtue of his office, is the Presiding Officer, or Chairman, of such governing body. He is the Executive Officer of the Lodge.

14 For the purpose of this Section, and subject to federal, state and local laws, a volunteer is not an employee.

15 Generally, meetings of the managing body are open to Members. Closed Executive Sessions may be called by a simple majority vote of the body, but should be used sparingly, for matters including employment and discipline, pricing of goods, and suspensions, at the request of the Accused. Voting must be done in Open Session and on the record.

16 A member of the managing body should recuse himself or herself in matters directly involving a family member.

17 A Lodge Secretary may be a member and Chair of an appointed House Committee, subject to standard conflict of interest considerations as set out in 9.300.

18 Membership on a House Committee appointed by the Exalted Ruler is restricted to Members in good standing of the Lodge.

19 In a Lodge with an Exalted Ruler-appointed House Committee, the Exalted Ruler may appoint himself or herself as a member of the Committee.

20 If a Lodge selects option *(b)* or *(c)* under this Section, the Exalted Ruler shall be an ex-officio non-voting member (unless they are an appointed Member) of the Governing Body of the Club.

21 A Lodge is not prohibited from charging fees, in addition to its regular Lodge dues, for the use of its "other facilities" (such as a golf course, swimming pool, bowling alley, etc.) that are not part of the Lodge's Club or social parlor.

22 A Lodge should not use the budgetary process in an attempt to control and direct the Managing Body of the Home, Club or other facility with regard to its actions and decisions pertaining to employment relationships and the fixing of prices for goods and services.

STATUTES ANNOTATED

• DECISIONS •

01 The Exalted Ruler has the exclusive right to appoint all Lodge Committees, including a House Committee, designated under Lodge By-Laws to manage and supervise the club facility. The Lodge has no authority to specify who the Exalted Ruler may appoint.

Although their term normally expires when the Exalted Ruler leaves office, House Committee Members serve at the pleasure of the Exalted Ruler and may be removed by him at any time, with or without cause. (*Grand Forum, Case No. 949, 1998*)

02 Under GLS 16.040, the House Committee decision cannot include provisions for suspension of club or social privileges to be served at some future date nor can it impose a period of probation or authorize consecutive sentences: a sentence begins on the date it is read on the lodge floor and runs for the period imposed. (*Grand Forum, Case Nos. 1367 and 1368, 2016*)

Section 16.041. The supervising or managing body of the club, social parlor or other facility shall have power to suspend a Member from club, social parlor or other facility privileges for a period not exceeding one (1) year (*Exhibit J*), for violation of rules duly adopted by the Lodge and approved by the Committee on Judiciary for such club, social parlor or other facility, or Conduct Unbecoming An Elk on such premises, after ten (10) days written notice to the Member (*Exhibit I*) served personally or by regular first-class mail and after a hearing before the supervising or managing body. (*See Exhibit I: Notice to Appear ... at Suspension Hearing*)

If the alleged violation involves the Exalted Ruler or a Member of the supervising or managing body, that individual shall recuse himself/herself until final disposition of the alleged violation. In the event the Exalted Ruler is the subject of the violation, if applicable, the authority of the Exalted Ruler to appoint and remove members of the House Committee shall be suspended pending final disposition of the alleged violation against him, and the Esteemed Leading Knight shall assume that authority while the charge(s) are pending.

An appeal to the Lodge may be taken by a Member suspended as hereinbefore provided by serving a Notice of Appeal (*Exhibit K*), by personal service or by mail upon the Secretary of the Lodge, not later than ten (10) days after receipt of written notice of suspension (*Exhibit J*). The execution of suspension shall be automatically stayed upon service of the Notice of Appeal pending disposition of the Appeal by the Lodge. The Secretary shall immediately report the filing of Appeal to the Exalted Ruler and to the Lodge at its next regular meeting. The Exalted Ruler shall order Hearing of the Appeal at a regular meeting of the Lodge to be held not later than forty-five (45) days thereafter. Notice in writing of Hearing of the Appeal shall be given by the Secretary to the membership not less than ten (10) days prior to the date specified therefor. A motion to modify or reverse the action of the supervising body must pass by an affirmative secret ballot of two-thirds vote of the Members present. No action is necessary to affirm the decision of the supervising body. In the event the Exalted Ruler is the subject of the suspension, the Leading Knight shall preside over the Lodge meeting at which the appeal is being decided.

STATUTES ANNOTATED

Any suspension imposed under this Section by a Member's home Lodge shall be applicable to and enforced by all Lodges of the Order, subject to the rights of appeal of the Member suspended as set forth herein. The Lodge Secretary shall make a notation of the suspension on the suspended Member's membership card. Upon the expiration of the suspension the Lodge Secretary shall issue to the Member a new membership card without reference to the suspension.

(See Exhibits I, J & K for proper notification samples for this section)

NOTE: See also House Committee Suspension Hearing Procedure—APPENDIX II, Section 13.040(k) and Section 14.130 regarding Associate Memberships.

• OPINIONS •

01 Except for a due process violation or procedural irregularity, the decision of the Lodge floor is final and cannot be appealed.

02 The governing body cannot delegate its authority to suspend a Member from club privileges.

03 The governing body of a home or club facility has no jurisdiction to punish a Member (by suspension of club privileges) for misconduct at a place other than the home or club facility, as such jurisdiction vests solely in the Local Forum.

04 If a Member, after due notice, fails to appear before the governing body to answer a complaint of violation of House Rules, the governing body may order a suspension.

05 A suspension of club privileges does not bar a Member from retaining his membership card and attending Lodge meetings.

06 The governing body of the club can exclude a non-Member from the Lodge premises for a violation of House Rules.

07 After a disciplinary hearing, a warning may be issued, however, no form of deferred or suspended discipline is permitted.

08 Once the governing body of the club is made aware of facts that support suspending the club, social parlor or other facility privi-

leges of a Member, said body should initiate the hearing process set forth in this Section as expeditiously as possible.

09 A suspension under this Section will run from the day of the service of the Managing Body's Notice of Suspension on the accused until stayed or completed. If the suspension is stayed pending an appeal, it would restart on the day the Lodge affirms (or does not reverse) the suspension at the appeal hearing.

10 A Member subject to multiple Club suspensions arising from the same course of conduct, cannot be suspended for a total time period of more than one year.

11 Any suspension of a Member by a managing body of a Club may only be modified by the Lodge on appeal.

12 For a Club-suspended Lodge Member who pays his/her dues for the following Lodge year, the Secretary shall issue a membership card to the Member with the same suspension notation as set forth on the previous card.

13 For purposes of disciplinary proceedings under this section, the terms "other facilities" and "premises" shall include those that support or permit the use and enjoyment of the Club facility, including parking lots and other areas of access on Lodge property.

• DECISIONS •

01 A violation of house or club rules is "Conduct Unbecoming An Elk" upon which charges may be predicated against the offending Member. (*Grand Forum, Case No. 141, 1915*)

02 Vile, obscene and insulting language used in an Elks Lodge or club is an offense against the Laws of the Order. (*Grand Forum, Case No. 103, 1915 and Case Nos. 721 and 729, 1987*)

03 In suspending a Member for a violation of club rules, the governing body of the club is not acting as a judicial body but is performing only an administrative function, and to that extent is subject to the control of the Lodge. (*Grand Forum, Case No. 482, 1962*)

04 This Forum has consistently held that it has neither appellate nor original jurisdiction to review the propriety of a suspension order properly made under Section 16.041, but that this Forum can and will intervene and grant relief upon proper petition if it clearly appears therefrom that a Member has been deprived of a substantial right of membership without due process of law. (*Grand Forum, Case No. 596, 1978*)

05 The Grand Forum cannot entertain a matter in which the statutory administrative remedies have not been exhausted. (*Grand Forum, Case No. 771, 1989*)

STATUTES ANNOTATED

06 The governing body of the Lodge is required to strictly follow the provisions of Section 16.041, including the ten (10) day written notice required. (*Grand Forum, Case No. 1035, 2003*)

07 Due process of law implies that right of a Member to be present before a tribunal, to hear the charges presented against the Member and to have the right, if possible, to controvert those charges. (*Grand Forum, Case No. 1036, 2003*)

08 The failure of the supervising or managing body of the club to give a Member at least ten (10) days written notice of his alleged violation of club rules or Conduct Unbecoming an Elk committed on club premises prior to a hearing before that body on the alleged violations renders all subsequent proceedings a nullity. (*Grand Forum, Case No. 1046, 2003*)

09 Upon conclusion of a suspension hearing, without adjournment, the managing body can deliberate and vote upon the matter in closed executive session. But the votes, in total and by member, and the result must be announced in open session. (*Grand Forum, Case No. 1244, 2012*)

10 The remedy to contest denial of due process by a governing body in a suspension proceeding is by appeal to Grand Forum. (*Grand Forum Case No. 1143*)

11 Suspension of club privileges of a visiting Elk requires compliance with GLS 16.041 notice and hearing requirements the same as for a Member of the home Lodge. (*Grand Forum, Case No. 1182, 2010*)

12 House Committee notice of hearing must specify date, behavior, and circumstances of alleged behavior as well as permit an accused to confront the accuser offering evidence based on personal knowledge of what happened. Club suspensions under GLS 16.041 reversed. (*Grand Forum, Case Nos. 1396, 1397, and 1399, 2016*)

13 The House Committee of the Lodge is required to follow strictly the provisions of Grand Lodge Statutes if there is an intention to suspend a Member from privileges of the club or home. The Grand Forum has consistently held it has neither appellate nor original jurisdiction to review the propriety of a suspension order made under GLS §16.041, but this Forum can and will intervene and grant relief upon proper petition if it clearly appears a Member has been deprived of a substantial right of membership without due process of law. (*Grand Forum, Case No. 1381, 2016*)

Section 16.050. A Lodge, whether incorporated or not, or any corporation, club, social parlor or other facility under the control of the Lodge, must obtain a permit from the Board of Grand Trustees before it may:

- (a) Purchase real estate at a cost in excess of \$25,000.00;
- (b) Acquire property by lease for a period of more than one year;
- (c) Construct a new facility, whether a building or otherwise, if the cost is in excess of \$25,000.00;
- (d) Make additions to or alterations in its present facilities, if the cost is in excess of \$25,000.00;
- (e) Contract for services, purchase furnishings, fixtures and equipment, other than equipment required for normal maintenance, at a total cost in excess of \$25,000.00; provided, however, the requirement of this section shall not apply to employment contracts with employees of the club or home.
- (f) Sell, exchange, or make a gift of its real property, or any portion thereof, unless as a result of condemnation proceedings;

- (g) Lease its real property, or any portion thereof, for a term of more than five (5) years, whether it be an original term or under an arrangement for renewal or extension;
- (h) Incur or refinance a debt involving mortgage of real property or the sale of debentures, bonds or other certificates of indebtedness;
- (i) Borrow money for any purpose (*See exception in next to last paragraph of this section*).
- (j) Sell, exchange, or make a gift of its personal property valued in excess of \$25,000.00.

Application for the permit must be in writing on forms obtained from the office of the Grand Secretary. The instructions contained in the application must be followed in every respect and there must be full and complete disclosure of all information requested in the application. The application shall be filed in duplicate with the Building Applications Member of the Board of Grand Trustees with a copy to the Sponsor(s) having jurisdiction.

The Board of Grand Trustees shall in no case issue a permit hereunder unless and until it has been furnished satisfactory evidence that:

- (k) A written proposal was read on the Lodge floor at least two but not more than eight weeks prior to the scheduled date for a vote of the Lodge on the proposal setting forth the following applicable information:
 1. Purpose of project.
 2. Amount to be expended for each purpose enumerated above.
 3. Amount of indebtedness to be created.
 4. Any property to be mortgaged.
 5. Persons to be authorized to act for the Lodge.
 6. Amount to be received by the Lodge.
- (l) The proposal read on the floor of the Lodge, together with a Notice setting forth the date, time and location of the regular or special meeting at which the proposal will be voted upon, was mailed to each Member of the Lodge at least ten (10) days prior to the date of the scheduled meeting.
- (m) That at the regular or special meeting the proposal was adopted by at least a favorable vote from two-thirds of the Members present.
- (n) That the Lodge has met the requirements of Section 12.070.

Copy of the notice sent to the Members shall be mailed at the same time to the Sponsor, the District Deputy Grand Exalted Ruler, and the Building Applications Member of the Board of Grand Trustees having jurisdiction thereof.

Action taken by a Lodge which is not in strict compliance with the provisions of this Section shall be void.

STATUTES ANNOTATED

The Board of Grand Trustees shall investigate all applications submitted under the provisions of this Section. It shall refuse to issue a permit if the proposed project is financially unsound and otherwise not in the best interest of the Lodge or the Order. The Lodge should have a 60% equity in its assets upon completion of the project.

A Member of the Lodge claiming that the provisions of this Section had not been followed may file a written protest within fourteen (14) days of the Lodge vote with the Building Applications Member of the Board of Grand Trustees having jurisdiction, setting forth therein, in detail the irregularities claimed and the source of information concerning them. The protest shall be given due consideration by the Board in its processing of the application.

On approval by the Board of Grand Trustees, it shall issue an official permit to the Lodge, which shall be its authority to proceed with the project. A copy of the permit will be sent to the Grand Secretary.

No Lodge shall exceed the authority granted in the permit unless and until it has received further authorization from the Board of Grand Trustees. If it appears, during the course of completion of the project, its cost will exceed the authority, the Lodge shall immediately communicate that fact, and all information concerning it, to the Chairman of the Board of Grand Trustees and it shall be guided by his instructions in the matter.

Upon completion of the project, the Exalted Ruler and the Secretary of the Lodge shall certify that the project has been completed. The certification shall be forwarded to the Grand Secretary. If it appears there has been a violation of the terms of the permit, the Grand Secretary shall refer the matter to the Chairman of the Board of Grand Trustees for investigation and appropriate action.

Projects approved under the provisions of this Section shall be commenced within one year after the date of the permit and shall be completed within one year after commencement, unless the time is extended upon application to the Board of Grand Trustees. If not commenced and completed within the time limits and no extension application has been made, a new application must be submitted by the Lodge.

In the event that a Lodge experiences a sudden emergency that requires immediate action in order to protect the integrity of the physical premises of its property or of property owned by a separate corporation formed pursuant to Grand Lodge Statute 16.030, the Lodge shall be permitted to contract for services, purchase furnishings, fixtures and equipment, other than equipment required for normal maintenance, shall be permitted to incur or refinance a debt involving mortgage of real property or the sale of debentures, bonds or other certificates of indebtedness, and shall be permitted to borrow money for the protection or restoration of the subject property without first obtaining a permit from the Board of Grand Trustees, but upon first obtaining written approval of the State Sponsor in the State in which the Lodge is located. In this instance, the Lodge must make application for a permit from the Board of Grand Trustees as soon as practicable.

STATUTES ANNOTATED

A State Association, whether incorporated or not, must obtain a permit from the Board of Grand Trustees upon their undertaking any of the transactions listed in paragraphs (a) through (j) of this Section.

Permission to borrow money for a period of less than one (1) year, and not collateralized by a mortgage, may be approved by the Sponsor of the State in which the Lodge is located.

If a Lodge shall permit a violation of this Section, the Grand Exalted Ruler, with the consent of the Board of Grand Trustees, shall have power to suspend or revoke its Charter.

• OPINIONS •

01 A Lodge By-Law may create a reserve fund for remodeling and refurbishing its home specifying which revenues or portions thereof shall be put into the fund.

02 An increase in an earlier approved mortgage (by the Grand Trustees) must be approved by the Board of Grand Trustees.

03 A Lodge is granted a permit to lease a building with an option to purchase. A further application is necessary if the Lodge decides to exercise the option as the prior permit only permitted the lease of the building.

04 Any material amendment of a proposal properly noticed to the membership under this Section must be completely reprocessed under the provisions of this Section before being voted upon at a regular meeting.

05 A Lodge resolution authorizing the sale of its real property, may specify therein that the proceeds be used exclusively for the purchase of a more desirable site and erecting a building thereon.

06 A Lodge may properly accept a conveyance from an Elks Home Corporation and assume any mortgage indebtedness thereon; provided that the provisions of this Section are properly complied with.

07 Notice to Lodge of proposal to purchase, sell, etc., should give sufficient details of the proposal so as to adequately inform the membership of what is contemplated, in a specific rather than in a general way.

08 See also Section 1.115 for notice requirements.

• DECISION •

01 No violation of §16.050 will be found where the State Sponsor approved the borrowing under the §16.050 exception for borrowings approved by the Sponsor. (*Grand Forum, Case No. 1272, 2013*)

Section 16.060. The proceedings of all meetings shall be characterized by proper decorum, and no vulgarity, profanity or indecent conduct shall be permitted. A Member violating this provision shall be subject to discipline, suspension or expulsion. A Member shall be responsible to the Lodge for the conduct of guests admitted upon his invitation.

Section 16.070. A Lodge may establish a home or club bearing a name, title or emblem of the Order, within its basic jurisdiction whether within or without the corporate limits of the city, town, community or village.

A proposal to change the name of a Lodge must be approved by the Grand Lodge.

• OPINION •

01 A Lodge may lease and improve a park within its basic jurisdiction, provided the leasing and use of the park is handled as a Lodge proposition and no Member is excluded from it.

STATUTES ANNOTATED

Section 16.080. A Lodge may hold a social session to which persons not members may be admitted. No social session shall be held during Elks Memorial Day Services, or during a meeting of the Lodge.

• OPINION •

01 Each Lodge is the judge of the restrictions it may desire to set for any social session as long as no Law of the Order is in contravention thereof. Visitors may be permitted to attend these sessions.

Section 16.090. All Homes, Clubs, Club Rooms and Social Parlors shall be closed during the hours of all regular and special meetings of the Lodge, except those facilities thereof designated for the use of and then being used only by the non-Member spouses and minor children of the Members of the Lodge, and caregivers or drivers of disabled Lodge Members, providing the use does not interfere with the proper functioning of Lodge meeting. Any Lodge violating this Section under any pretext whatever shall be liable to a forfeiture of its Charter.

• DECISION •

01 The lessee of Club Rooms, swimming pool, bowling alley, golf course, parking lot, park, or any other Lodge property must comply with all provisions of our Constitution, Laws of the Order and By-Laws of the Lodge. A

Member not in good standing is still an Elk subject to any conditions of his suspension and is still subject to all of the provisions of our Constitution, Laws of the Order and By-Laws. (*Grand Forum, Case No. 1053, 2004*)

Section 16.100. A Member who is sick, or in distress, and who is at the same time at a distance from the city or town in which his own Lodge is located, may make application for relief to any Lodge of the Order within whose jurisdiction he may be at the time. Upon receipt of the application, the Secretary of the Lodge receiving it shall make such examination as is necessary to determine that the applicant is deserving of assistance. He shall communicate with the Secretary of the Lodge of which the applicant is a Member giving his roll number and the number of his card. Before any relief shall be granted, a statement shall be received from the Lodge of the applicant giving the standing of the applicant together with amount for which the Lodge will become responsible.

No Lodge shall be responsible to any other Lodge under the provisions of this Section except in an amount as may be determined by the Grand Forum in an action instituted therein. No action may be instituted unless the question in controversy has been submitted by the parties for arbitration by the Chairman of the Committee on Judiciary. Nothing shall prohibit any Lodge from aiding a Member who may be within its jurisdiction and in distress, from its own funds. In cases where difficulties prevent proper and rapid communication between Lodges, or where the action must be prompt, reasonable steps may be

taken to temporarily meet actual necessity, and communication shall then immediately be had with the Lodge of the applicant or deceased. In such case, in order to hold a Lodge responsible for aid given in this manner to any of its Members without prior communication, the acts must be ratified by the Lodge or proper Officers thereof.

• OPINIONS •

01 A Lodge is under no legal obligation to bury a deceased Member, whether he dies within or without its jurisdiction. If relatives cannot be contacted or are without means, the Lodge may properly do so.

02 It is permissible for a Lodge to allow a Member with a disability to be accompanied by an interpreter or other facilitator to allow participation in Lodge meetings and other events, provided such other person is admonished of the need to preserve the confidentiality of any information received.

Section 16.110. Every Lodge shall have a seal, and shall keep the following records which shall be in the care and custody of the Secretary:

- (a) A visitors' register.
- (b) A book of By-Laws, with the signatures of each Member, containing all amendments, with the date of same, and the approval of the Committee on Judiciary.
- (c) A book of the minutes or proceedings of the Lodge.
- (d) A record containing the name of each Member, his birthplace, occupation, residence, the date of his initiation or affiliation, and also the date of the termination or suspension of his membership, with the cause therefor.
- (e) A record of expulsions, suspensions and rejections.
- (f) Records necessary to present clearly the receipts and accounts of the Secretary and Treasurer, and general financial and other transactions of the Lodge.

Lodges may use the official emblems upon Lodge stationery, special Life Membership cards, window decorations, murals, other monuments, and in any other manner strictly connected with Lodge purposes.

The Lodge shall maintain a copy of the Constitution and Laws of the Order furnished by the Grand Secretary and furnish each new Member a copy thereof.

The seal of the Lodge shall be impressed or imprinted upon receipts for dues and upon all official documents as required.

• OPINION •

01 The Secretary has charge and custody of all Lodge records, and no other Member may remove files and records from the Secretary's possession and control. However, all Lodge records should be open for inspection

by any Member at all reasonable times, and a Member may properly take notes on the information contained therein.

STATUTES ANNOTATED

Section 16.120. No Lodge shall sponsor or create any charitable fund, trust or other agency using the word “foundation,” or any title or designation in which the word shall appear.

Section 16.130. Whenever it is the duty of an Officer of the Grand Lodge or a Local Lodge to serve upon a Member a notice of any kind, the notice shall be served personally or by mail to the address of record.

Section 16.140. No Lodge or Member may solicit aid from other Lodges or Members unless the solicitation has been approved by the Grand Exalted Ruler.

• OPINION •

01 Lodges shall not engage in any fund-raising program involving the payment of a promotional fee unless approved by the Grand Exalted Ruler. *See Section 9.130.*

Section 16.150. A Lodge, a group of Lodges or Member of the Order shall not institute, establish, begin or maintain the publication of any magazine, newspaper or other periodical devoted to the interests of the Order, or purporting to be an Elks publication, in whole or in part, without first securing appropriate sanction.

A Lodge, group of Lodges or Member desiring to establish a publication shall apply to the Area Member of the Committee on Judiciary for approval prior to publishing the initial issue. The application must contain full information as to the title, size, times of publication, editors and publishers and the price of the publication. The Grand Exalted Ruler, with the consent of the Grand Lodge, may revoke the approval.

• OPINIONS •

01 Unless specifically provided for in the Lodge By-Laws, the Member(s) charged with creating the bulletins, website and other publications of a Lodge are under the Exalted Ruler’s powers of appointment as a committee function of the Lodge, with no floor approval required except for the required funding and budgetary support. Potential damage to the Lodge and the Order from improper material mandates that they be held personally responsible for the contents of their publications under the provisions of the Order’s Laws and their Obligations, and subject to the continual control of the Lodge. Should any Members produce offensive District or State Association publications or websites, they shall likewise be subject to charges filed in their home Lodge.

02 To preserve the privacy of the Members and applicants for membership in the Order, Lodges may not publish their bulletins or newsletters on a website open to the public, including by use of the Grand Lodge or State Association websites.

03 If a Lodge publishes any magazine, newspaper, bulletin or other periodical devoted to the interests of the Order, every Member of that Lodge is entitled to receive a copy of each such publication, whether by electronic delivery or by regular mail.

04 The Lodge Bulletin may be sent electronically to any Member without written authorization from that Member, unless otherwise requested by the Member.

STATUTES ANNOTATED

Section 16.160. No Member shall use, own or control any trademarked or copyrighted name of the Order, including but not limited to “B.P.O.E.,” “Elks – USA,” “Elks National Foundation,” “ENF,” “Elks” or the name and number of any Lodge, whether alone or in conjunction with any other letters or numbers, in an Internet domain name or on an Internet website, unless specifically authorized to do so by either the Lodge or by the Grand Secretary.

If a Member has an unauthorized domain name or website, that Member must either terminate the domain name or website, or transfer the domain name or website to the Lodge, if the Lodge wishes to acquire the domain name or website. If the Lodge elects to accept the domain name or website, the Lodge shall reimburse the Member for the costs of registering the domain name.

— **CHAPTER 17** —
AMENDMENTS

Section 17.010. A proposal or resolution by a Lodge to amend or enact any Law or to amend the Constitution shall be presented to the Grand Lodge, only after the Lodge has furnished satisfactory evidence to the Grand Secretary: **(1)** that the proposal was submitted in writing and read at a regular meeting of the Lodge and laid over for a vote thereon at a regular Lodge meeting held not less than two **(2)** weeks nor more than eight **(8)** weeks thereafter as designated by the Exalted Ruler of the Lodge; **(2)** that notice in writing setting forth an exact copy of the proposal was sent to the entire membership not less than ten **(10)** days before the regular meeting at which the proposal was voted upon; and **(3)** that the proposal was adopted by a two-thirds **(2/3rds)** vote of the Members present at the regular meeting, certified by the Exalted Ruler and Secretary setting forth the number of Members present at the meeting and the number in favor and the number voting in opposition. The adopted proposal shall be filed in duplicate with the Grand Exalted Ruler and Grand Secretary not later than April 1st preceding the Grand Lodge Session. A copy of every proposal or resolution, timely and properly submitted, to amend or enact any Law or amend the Constitution which is presented to the Grand Secretary pursuant to this Section shall be submitted to all Local Lodges by the Grand Secretary at least sixty **(60)** days prior to the convening of the next Grand Lodge Session. The provisions of this Section shall not apply to proposals or actions by State Associations permitted in Section 17.020 nor to any proposals submitted by the Grand Lodge Committee on Judiciary.

• **OPINIONS** •

01 A Lodge may submit a proposed amendment to the Laws of the Order, but may not send copies of the resolution to other Lodges without permission of the Grand Exalted Ruler.

02 After compliance with this Section, a proposal or resolution by a Local Lodge to enact any law or amend the Constitution or Statutes must be presented for consideration at the next Session of the Grand Lodge. If not adopted, resubmission requires new compliance with the provisions of this Section.

STATUTES ANNOTATED

Section 17.020. A State Association has the right to propose a Law or an Amendment to a Law. The proposal shall be sent to the Grand Secretary and the Chairman of the Committee on Judiciary by May 15th preceding the Grand Lodge Session to which it to be proposed. The Grand Secretary, upon receipt of a resolution to amend the Grand Lodge Statutes from State Associations, shall forward copies of said resolution to amend the Constitution and/or Laws of the Order to all Local Lodges at least thirty (30) days prior to the Grand Lodge Session to which it is to be presented. Only those resolutions so proposed and forwarded to Local Lodges shall be considered for a vote at the Grand Lodge Session. The Committee on Judiciary shall present the proposal to the Grand Lodge with its recommendation.

• OPINION •

01 After compliance with this Section, a proposal or resolution by a State Association to enact any law or amend the Constitution or Statutes must be presented for consideration

at the next Session of the Grand Lodge. If not adopted, resubmission requires new compliance with the provisions of this Section.

Section 17.030. A true copy of every amendment to the Constitution which has been adopted by the Grand Lodge, as provided in Article IX of the Constitution, shall be forwarded by the Grand Secretary to each Lodge on or before the fifteenth day of August following. Each Lodge shall, at its first regular meeting in September, vote upon the same. A majority vote of Members present and voting at the regular Lodge meeting shall determine whether the Lodge approves or rejects the proposed amendment. The Lodge Secretary shall certify to the Grand Secretary whether the Lodge approved or rejected the proposed amendment on or before the first Monday in October.

Section 17.040. Failure of a Lodge to vote on a Constitutional Amendment submitted by the Grand Secretary within the time fixed by Section 17.030 or report the result of the vote thereon to the Grand Secretary shall be considered an act of contumacy.

Section 17.050. The Committee on Judiciary shall prepare annually and file with the Grand Secretary guide By-Laws and Rules of Order for use by Lodges. The Grand Secretary shall send a copy to each Lodge. The By-Laws and Rules of Order of the Lodge shall be automatically amended without Lodge action to conform to the Constitution and Laws of the Order as amended. Each Lodge shall have authority to enact additional By-Laws and Rules of Order for its own local government not contrary to the Constitution and Laws of the Order. Each Lodge shall enact or have in force House Rules for its own local government. By-Laws, Rules of Order, House Rules or amendments thereto are not enforceable until approved by the Committee on Judiciary. A Lodge failing to comply with the provisions of this Section shall be guilty of contumacy.

• OPINIONS •

01 No By-Law change may become effective retroactively.

02 A motion for By-Law change which is clearly in conflict with the Laws of the Order should be declared out of order by the Exalted Ruler. *See 4.370, Opinions 01 and 03.*

Section 17.060. Amendments to or general revisions of By-Laws, Rules of Order and House Rules of a Lodge shall be proposed in writing, read at a regular meeting of the Lodge and laid over for a vote at a regular Lodge meeting to be held not less than two (2) weeks nor more than ten (10) weeks thereafter. Notice setting forth the proposed changes to the By-Laws, Rules of Order and House Rules shall be sent to all Members at least ten (10) days before the regular meeting at which the proposed amendment or general revision is to be voted upon. A majority vote of Members at the meeting shall be required for adoption.

Not later than during the fifth year following the adoption of its original By-Laws and Rules of Order, or of a general revision thereof, each Lodge shall prepare and file a current general revision of the By-Laws, Rules of Order and House Rules. The Lodge shall use the latest form of By-Laws and Rules of Order prepared by the Grand Secretary, and House Rules in a form approved by the Lodge. Any general revision of By-Laws and Rules of Order shall be accompanied by a general revision of House Rules.

• OPINIONS •

01 Voting on a By-Law amendment may be made a special order of business if the provision is contained in the motion proposing the amendment.

02 A defeated amendment may be made again with proper notice to the membership.

03 Notice to the membership should follow, rather than precede, the initial presentation of any By-Laws or House Rules amendment or revision. Such notice must be in sufficient detail to clearly inform the Members of the changes being proposed.

04 In case of conflict between By-Laws and House Rules, the By-Laws prevail.

05 Increase in dues can set forth alternative increases which will be voted upon separately.

06 The Lodge cannot change control over the club facility without amendment of the By-Laws.

07 A By-Law change decreasing the number of Trustees cannot affect the term of those in office.

08 The Exalted Ruler may call for a second vote when it is clear that many Members were unaware that abstentions were in effect a negative vote.

09 When Grand Lodge acts in a matter affecting Local Lodges, then said action supersedes and overrides any contrary local By-Laws.

10 A general revision is a complete restatement of the By-Laws and House Rules of a Lodge. General revisions may include amendments. An amendment only changes some portion(s) of an existing By-Law or House Rule.

11 A Lodge, by majority vote, may choose to vote on any amendments or general revisions to its By-Laws, Rules of Order or House Rules by secret ballot. *See Section 15.080.*

12 Any notice sent pursuant to this Section shall provide the date and time of the regular meeting at which said amendments or general revision will be voted upon, and shall contain a clear description of the proposed amendments or general revisions to be considered.

• DECISION •

01 Prices or fees charged by a Lodge for commodities, services or use of club facilities and equipment are not "House Rules" as the term is employed in Sections 17.050 and

17.060 and need not be approved by the Committee on Judiciary to be valid or collectable. (*Grand Forum, Case No. 564, 1974*)

Section 17.070. A Lodge shall not adopt any resolution or memorial other than one directly affecting itself or action to be taken by its representative, without first submitting the resolution or memorial to the Grand Exalted Ruler for his approval. A Lodge or Member thereof shall not promulgate or circulate any resolution, circular or writing regarding or pertaining to any question or subject without first submitting such circular, resolution or writing to the Grand Exalted Ruler for his approval. A Lodge or a Member of the Order violating this Section shall be deemed guilty of contumacy. This Section shall not apply to resolutions, circulars or literature pertaining to candidates for office in the Grand Lodge or to candidates for office in State Associations, provided, however, that the same shall not be used for advertisement in the public press, by poster or flyer publicly exhibited or distributed, by postal card, by letter or circular sent through the mail in an unsealed envelope, by radio broadcast, or by any public method of appeal.

— CHAPTER 18 —
STATE ASSOCIATIONS

Section 18.010. State Associations may be organized and maintained in manner and form and with the limitations, powers and duties provided in Section 20 of Article III, of the Constitution of the Order. If there shall be more than one body or organization claiming to be a State Association of any state or territory, the question shall be submitted to the Chairman of the Committee on Judiciary, who shall thoroughly and fully investigate the matter and report his conclusions and findings, together with all evidence adduced, to the Grand Exalted Ruler who will determine which of such bodies or organizations is the legal State Association for such state or territory.

Section 18.011. The Constitution or By-Laws of State Associations shall provide that its President, prior to his election, shall be a Past Exalted Ruler, as defined in Section 1.140 of these Laws.

Section 18.020. Each State Association shall regulate its own internal affairs in a manner as it shall see fit, consistent with the Constitution and Laws of the Order. Each State Association shall at all times be amenable and subject to the supervision and control of the Grand Lodge and its properly qualified Officers.

No State Association shall have or exercise any legislative, executive or judicial functions except concerning its own internal affairs nor have jurisdiction over Lodges of which it is composed, nor their Members.

The Constitution and By-Laws of each State Association and all amendments thereto shall be approved by the Grand Lodge Committee on Judiciary.

Each State Association shall fix the amount of annual dues for membership in its Constitution or By-Laws.

STATUTES ANNOTATED

The Constitution or By-Laws of a State Association shall provide for the appointment of standing committees on Americanism, Business Practices, Drug Awareness, Elks National Foundation, ENF-MVS Scholarship Contest, Government Relations, Hoop Shoot®, Lodge Activities, Membership, National Veterans Service Commission, Public Relations, Ritualistic and Youth Activities. The duties of each Committee are to accomplish and promote the programs of the Grand Lodge Committees.

(See Appendix of Annotated Statutes for certificate form to be used in securing approval of State Association Constitutional and/or By-Law amendments.)

• OPINIONS •

01 Election or appointment of District Officers of a State Association is a valid exercise of State Association powers.

02 A State Association exists by virtue of the Constitution and Laws of the Order and operates under the direction and control of the Grand Lodge. It is authorized to exercise executive, legislative and judicial functions over its internal affairs.

It may also:

a. Assess dues against its Members.

b. Not in conflict with the Laws of the Order establish qualifications for candidates for state office.

c. Solicit contributions to the welfare activities of the Association.

03 Per GLS 4.370(e), State Associations shall submit all Articles of Incorporation, Constitutions, By-Laws and rules of any corporation or other entity formed by or on its behalf, including revisions and amendments thereto, to the Grand Lodge Committee on Judiciary for approval.

Section 18.030. Each State Association shall furnish to the Grand Secretary the following:

(a) Copies of its Constitution, By-Laws, Rules and Regulations, and all amendments thereto.

(b) A list of Officers and the Lodges composing it together with the post office address of its President, Vice-President(s), Secretary, Treasurer, and each member of its governing body.

(c) Any information that may be requested by an Officer of the Grand Lodge.

Section 18.040. Each State Association shall in its Constitution or By-Laws designate who shall compose its governing body in the interim between meetings or reunions.

Section 18.050. A State Association, through an entity having a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, may receive and accept from the Elks National Foundation funds for charitable, benevolent, educational and other exempt purposes.

Section 18.060. A State Association, Past Exalted Rulers' Association or similar organization shall neither directly nor indirectly endorse the candidacy of a person for office in the Grand Lodge nor take any action whatever in any manner concerning the same. A State Association, Past Exalted Rulers' Association, or similar organization shall not take any action whatever on any political, legislative or public policy matter whether general or local, unless the action be in accord with the previous action of the Grand Lodge.

Section 18.070. The Grand Exalted Ruler may call upon the governing body or any Officer of any State Association for advice, recommendation or information concerning any matter arising within the state for which such State Association is organized. The governing body or Officer shall furnish such advice, recommendation or information. The advice, recommendation or information shall be advisory only.

Section 18.080. A State Association may prepare and use a ceremony for the installation of its Officers. The ceremony shall not be used until approved by the Grand Lodge Ritualistic Committee.

Section 18.090. A State Association shall not institute, establish, begin or maintain the publication of any magazine, newspaper or other periodical devoted to the interests of the Order, or purporting to be an Elks publication, in whole or part, without first securing the sanction of the Grand Lodge.

A State Association desiring to publish a bulletin for the purpose of disseminating information and news concerning the Association by publishing a bulletin, shall apply to the Area Member of the Committee on Judiciary for an approval of the publication, stating the title, size, time of publication, scope and general intent of the bulletin, and upon the approval may proceed with the publication. The Grand Exalted Ruler with the consent of the Grand Lodge may revoke the permit.

A State Association may offer its publication for subscription when publication is approved.

Section 18.100. No State Association shall sponsor or create any charitable fund, trust or other agency using the word "foundation," or any title or designation in which the word shall appear.

Section 18.200. In the event two or more State Associations desire to merge, creating one surviving State Association, representatives of the State Associations shall meet to discuss the terms of said merger. Such discussions shall include, but not be limited to, the terms of the new constitution and other governing documents.

Section 18.210. After completing the requirements described in Section 18.200, the respective State Secretaries shall send notice to each Lodge in their State Association of the proposed merger. Such notice shall contain the terms of the proposed merger, with instructions to read said notices at a regular meeting of the Lodge and to post on the Lodge bulletin board. Said notice shall be sent to the Lodges no less than 60 days prior to any meeting of the State Association where said resolution is to be voted upon.

At the State Association meeting the President of the State Association or their designee, shall present the terms of the proposed merger. Upon motion and second discussion shall ensue. The internal rules of the State Association shall control the discussion, but in no case shall it be eliminated or unreasonably limited. After discussion, a vote on the proposed merger shall be taken. The proposition to merge shall be approved by two-thirds of the Members present who are entitled to vote. The Secretary shall notify the Grand Exalted Ruler of the results of the vote. The Grand Exalted Ruler shall either approve or disapprove said resolutions.

Section 18.220. Members of the merged State Associations are automatically members of the surviving State Association upon approval of the votes taken in 18.210.



GRAND LODGE

RULES AND ORDER OF BUSINESS

- I.** At sound of the gavel there shall be a general silence and any Member disobeying shall be subject to reprimand.
- II.** No Member shall, if objection is made, be allowed to speak more than once on the same question, if thereby he may prevent others, who have not yet spoken, from having the opportunity to do so.
- III.** Members in voting shall do so by raising their right hand, unless a ballot be taken or the roll called.
- IV.** Upon the demand of the representatives from not less than twenty-five Lodges, the Ayes and Noes may be ordered upon any question and entered upon the Journal.
- V.** When a question has been indefinitely postponed, its subject matter shall not be presented again, in any form, earlier than the next annual session.
- VI.** Officers must be clothed in appropriate regalia when the Grand Lodge is in session.
- VII.** The Presiding Officer shall enforce order and decorum, and decide all questions of order without debate, subject to an appeal by two members of the Grand Lodge.
- VIII.** Every Member who desires to speak shall rise and remain standing, address the Presiding Officer properly, and wait until recognized before speaking.
- IX.** Every proposition offered for consideration shall be in writing except subsidiary motions.
- X.** Standing or special committees shall not sit while the Grand Lodge is in session, unless authorized to do so.
- XI.** No Member shall retire from the Grand Lodge room during the session without first having received permission from the Grand Exalted Ruler or the Grand Esteemed Leading Knight. And no recess for a longer period than one hour shall be taken until after the address of the Grand Exalted Ruler and the report of the Grand Secretary have been presented and referred; and said report must be printed and distributed to the Members of the Grand Lodge present.
- XII.** At the annual session the following order of proceedings and business shall be observed;
 - 1.** Opening ceremonies.
 - 2.** Reports of the Committee on Credentials.
 - 3.** Adoption of roll call and minutes of previous session as printed.
 - 4.** Adoption of the reports of the Grand Exalted Ruler, Grand Secretary and the Board of Grand Trustees.

GL RULES AND ORDER OF BUSINESS

5. Election of Officers.
6. Presentation of resolutions, memorials, petitions, communications, amendments, etc., without reading, to be placed with the Grand Exalted Ruler for reference to the various Committees.
7. Special order.
8. Reports of Standing and Special Committees.
9. Installation of Officers.
10. Miscellaneous business and closing of the Grand Lodge.

XIII. These Rules of Order shall not be suspended at any time except by a two-thirds vote.

XIV. The Grand Lodge may, at any time, by a three-fourths vote go into Executive Session, during which all persons not Members of the Grand Lodge shall be excluded.

XV. All parliamentary practice in conducting the business of the Grand Lodge, not herein specially provided for, shall follow the current version of "Robert's Rules of Order, Newly Revised."

XVI. All former Rules of Order of the Grand Lodge, inconsistent herewith, are hereby repealed.

• OPINIONS •

01 Where the Grand Exalted Ruler declares a proposition carried, his decision stands unless promptly appealed from.

02 A motion was defeated at one session. At the next session a like motion was again made. Such new motion must not be considered as a motion to reconsider the action taken at the previous session.

RULES GOVERNING THE GRAND FORUM

— Section I —

RULES OF GENERAL APPLICATION

Rule 1.1 Construction and Application. These rules shall be construed to promote the principles of Charity, Justice, Brotherly Love and Fidelity, and to secure simplicity in procedure and fairness and due process in application. Unless otherwise stated any rule may be relaxed or dispensed with by the Grand Forum if adherence to it would result in an injustice. In absence of a rule the Grand Forum may proceed to any manner compatible with these purposes.

Rule 1.2 Reference and Citation of Rules. These rules shall be referred to as “Grand Forum Rules” and shall be cited, for example, as “G.F.R. 1.2”

Rule 1.3 Proceedings in Open Forum. All appeals, trials, hearings and applications shall be conducted in open Forum unless otherwise provided by Constitution, Statute or Forum decision; settlement conferences and consensual matters, however, may be heard at bench, side-bar or in chambers.

Rule 1.4 Verbatim Record of Proceedings. All proceedings in open Forum shall be recorded or transcribed verbatim unless the Forum otherwise orders.

Rule 1.5 Exhibits. The verbatim record of the proceedings shall include references to all exhibits and, as to each, the offering party, a brief description of the exhibit stated by the offering party or the Forum, the marking directed by the Forum, and a record of the exhibits retained by the Forum at the end of the proceedings and of the disposition made of the other exhibits.

Rule 1.6 Sanctions.

(a) Failure to appear:

If without just excuse no appearance is made by or on behalf of a party when notified or required to do so, the Forum may order any one or more of the following:

1. The payment by the delinquent party of costs, in such amount as the Forum shall fix, to the Clerk of the Forum for the account of the Forum or to the adverse party;
2. The payment by the delinquent party of the reasonable expenses of the aggrieved party;
3. Dismissal of any pleading filed by such party or attorney, entry of judgment by default or the granting of such other relief or taking of such other action as appears appropriate.

(b) Failure to file pleadings or briefs:

For failure to comply with the requirements of any application, statute or rule for filing pleadings or briefs the Forum may dismiss the action or application or take such action as it deems appropriate. If an extension of time or a continuance or other relief is granted, the Forum may impose sanctions as provided in paragraph (a) of this rule.

Rule 1.7 Computation of Time. In computing any period of time fixed by Constitution, Statute, Rule or other of the Grand Forum, the day of the act or event from which the designated period begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, or legal holiday. In computing a period of time of less than 7 days, Saturday, Sunday, legal holidays shall be excluded.

GRAND FORUM RULES

Rule 1.8 Additional Time After Service By Mail. When service of a pleading, brief or paper is made by mail and a Statute, Rule or Forum order allows the party served a period of time after the service thereof within which to take some action, 3 days shall be added to the period.

Rule 1.9 Modification of Time. Unless otherwise expressly provided by Statute, Rule, or Order, the Grand Forum shall have the power to increase or decrease the fixed time in which to file documents as justice may require.

Rule 1.1.0 Caption; Name and Address of Party and Attorney; Format.

(a) Every document to be filed shall contain a caption setting forth the title of the action, the case number except in the case of the first document, and a designation such as notice of appeal, complaint or petition, answer, order, or the like. The title of the action shall include the names of all the parties. The first document filed by any party shall state his residence address or if the party is not a natural person, the address of its principal location or place of business, or mailing address if otherwise.

(b) Above the caption at the left-hand margin of the first sheet of every document to be filed there shall be printed or typed the name of the party or attorney filing the document, his residence or office address and telephone number.

Rule 1.1.1 Paragraphs. Allegations of claim or defense shall be made in numbered paragraphs.

Rule 1.1.2 Signing Verification or Certification and Form. All documents and briefs shall be typed and printed, signed and dated by the party or attorney of record. Signatures on any duplicate original or copy required to be filed or served may be typed or printed. Names shall be typed or printed beneath all signatures on papers to be filed or served. Documents and pleadings need not be verified or certified unless *ex parte* relief is sought thereon or Rule or Statute otherwise provides. The verification or certification shall not repeat the allegations of the documents or pleadings but may incorporate them by reference if made on personal knowledge and so stated and the allegations are of facts admissible in evidence to which the affiant is competent to testify.

Rule 1.1.3 Service of Documents and Briefs. In all actions unless otherwise provided by Rule, Statute or order of the Grand Forum, pleadings and documents filed subsequent to the original complaint, petition or notice, orders, judgments, motions, briefs and appendices shall be served upon all attorneys of record in the action and upon parties appearing pro se.

Rule 1.1.4 Manner of Service of Documents and Briefs. Service upon an attorney shall be made by mailing a copy to him at his office, by handing it to him or by leaving it at his office with a person in his employ or in the same manner as service is made upon a party.

Service upon a party shall be made upon him personally or by leaving a copy thereof at his usual place of abode with a member of his household over the age of sixteen (16); or by electronic mail; or by ordinary mail to his or her last known address; or if no address is known, by ordinary mail to the Clerk of the Forum.

Rule 1.1.5 Proof of Service. Proof of service may be made by an acknowledgment of service, signed by the attorney for a party or signed and acknowledged by the party; by an affidavit of the person making service; or, by a certificate of service appended to the paper to be filed and signed by the attorney for the party or the party making service. The proof shall be filed with the Forum promptly by electronic mail. Failure to make proof of service does not affect the validity of the service, and the Forum at any time may allow the proof to be amended or supplied unless an injustice would result.

GRAND FORUM RULES

Rule 1.1.6 Service By Mail; When Complete. Service by mail of any document referred to in G.F.R. 1.1.3 when authorized by Rule or order of the Forum, shall be complete upon mailing.

Rule 1.1.7 Filing. All documents and briefs required to be served by G.E.R. 1.1.3 shall be filed with the Forum either before service or promptly thereafter unless otherwise provided. A document or brief is filed with the Forum when the original is filed with the Clerk of the Forum. The Clerk shall notify the person filing if such documents or briefs do not conform to these Rules. If a document or brief is presented for filing without payment of the required fee, if any, the Clerk shall return the same stamped "Received But Not Filed (Date)" with notice that if the document or brief is retransmitted to him together with the required fee within 10 days after the receipt date stamped thereon, filing will be deemed to have been made on said date. The attorney of record or the party appearing pro se shall be answerable to the Clerk for all lawful fees, charges and costs.

Rule 1.1.8 Faxing. As a means of expediting the filing of documents in order to keep within the time frames established by the Laws of the Order in matters of appeals to the Grand Forum, faxing of said documents is permissible and an acceptable form of transmittal provided the same is accomplished in accordance with these Rules.

Any document faxed to a Grand Justice or Clerk of the Grand Forum shall be a reproduction of the signed original thereof. The original document shall be mailed to the recipient of the faxed copy no later than the day subsequent to the faxing.

The transmittor shall be responsible for the cost of transmitting and receiving of the faxed material notwithstanding the outcome of the case involved. No more than twenty five (25) pages, in addition to the cover page, shall be faxed. Only documents requiring receipt thereof within time restrictions fixed by the Laws of the Order shall be permitted to be faxed.

Rule 1.1.9 Service by Electronic Mail. The parties may use electronic mail to file and serve any pleading, brief or other document referenced in these Grand Forum Rules, except the original Notice of Appeal or a Complaint conferring original jurisdiction upon the Grand Forum. Those documents must be served by regular mail, on the Clerk of the Grand Forum, consistent with the Grand Forum Rules.

A document is served under this rule by sending it by electronic means to the Clerk of the Grand Forum, to each party and to the Administrative Justice assigned to the case. Service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served.

All documents served by electronic mail must be in the form of an Adobe PDF or Microsoft Word document, appended to the transmittal email.

The Clerk of the Grand Forum may serve by electronic mail, at the Clerk's discretion, any document including pleadings, briefs, or other document referenced in the Grand Forum Rules, on any Justice or any other who has provided an electronic mail address.

Rule 1.2.0 Motions; Summary Judgment Motions; Filing; Evidence; Affidavits. An application to the Forum for an order shall be by motion, or in special cases, by order to show cause, or motion for summary judgment. A motion, other than one made during a trial or hearing, shall be in writing unless the Forum permits it to be made orally. The motion shall state the grounds upon which it is made and the nature of the relief sought. If the motion or response thereto relies on facts not of record or not subject of Judicial Notice, it shall be supported by affidavit made on personal knowledge setting forth any facts which are admissible in evidence to which the affiant is competent to testify and which may have annexed thereto copies of all documents or parts thereof referred to therein. The Forum may direct the affiant to submit to cross-examination, or hear the matter wholly or partly on oral testimony or depositions. A motion for summary judgment may be supported by affidavits setting forth concise statements of material facts made upon personal knowledge. There must also be served and filed with each motion a memorandum showing that there is no genuine issue as to any material fact, and that the moving party is entitled to judgment as a matter of

GRAND FORUM RULES

law. Opposition to the motion for summary judgment may be by affidavits containing concise statement of genuine issues setting forth all material facts as to which it is contended there exists a genuine issue in opposition to the motion. Judgment will be rendered forthwith if the documents of record, discovery materials and affidavits show that there is no genuine issue as to any material fact and that any party is entitled to judgment as matter of law.

Rule 1.2.1 Time; Service; Cross-Motions; Dispositions. Motions shall be filed within fifteen (15) days after the notice of appeal or complaint has been served upon the party making the motion. If a motion is supported by affidavit, it shall be served and filed with the motion.

The adverse party to the motion shall have fifteen (15) days after service of the motion to file an answer stating with particularity the basis of the opposition to the relief sought, with opposing affidavits, if any. The moving party shall have five (5) days after the service of the answer to file a reply. A cross motion may be filed by the adverse party.

For good cause shown the Forum may allow a later filing of any motion, or of an answer thereto.

All motions, orders to show cause, affidavits, and memoranda shall be filed with the Clerk of the Forum, and opposing affidavits and cross-motions and replies shall be filed in the same manner. A copy thereof shall be served upon the adverse party.

Motions shall be deemed uncontested unless responsive papers are timely filed and served stating with particularity the basis of the opposition to the relief sought.

Motions shall be decided without oral argument unless the Grand Forum or Supervising Justice orders argument sua sponte or upon request of a party.

Rule 1.2.2 Voluntary Dismissal. An appeal may be dismissed at any time prior to trial, upon written motion of Appellant or by written stipulation of the parties. Such motion or stipulation shall be filed with the Supervising Justice and the Grand Secretary. Upon receipt thereof, the Administrative Justice shall enter an appropriate Order of Dismissal and may assess all costs of the appeal as the Administrative Justice may deem just.

Rule 1.2.3 Involuntary Dismissal. An appeal may be dismissed by the Administrative Justice, without prior notice and for good cause shown, for failure to comply with the Laws of the Order and/or Rules of the Grand Forum, or where the record fails to disclose facts or circumstances upon which relief can be granted.

Rule 1.2.4 Stipulation/Agreement of Facts. Any proceeding brought before the Grand Forum requiring an evidentiary hearing pursuant to Chapter 7 of the Laws of the Order may be presented to the Grand Forum upon a written Stipulation/Agreement of Facts and waiver of a formal hearing.

Rule 1.2.5 Trials; Opening & Closing; Objections; Exam of Witnesses; Trial Errors; Attorneys. Before any evidence is offered at trial, the Accuser (Appellant) may make an opening statement. The Accused (Respondent) may thereafter make an opening statement. After the close of evidence the parties may make closing statements in the reverse order of opening statements unless otherwise ordered by the Forum or provided by Statute.

Rebuttal and sur-rebuttal argument may thereafter be allowed by the Administrative Justice. For the purpose of reserving questions for review or appeal relating to rulings or orders of the Forum, a party, at the time the ruling or order is made or sought, shall make known to the Forum specifically the action which he desires it to take or his objection to the action taken and the grounds therefore. If a party has no opportunity to object to a ruling, order or instruction, the absence of an objection shall not thereafter prejudice him.

If an objection to a question asked of a witness is sustained by the Forum, the examiner may make a specific offer of what he expects to prove by the answer of the witness, and the Forum may add such other and further statement as clearly shows the character of the evidence, the form in which it was offered and the ruling thereon. Upon request the Forum shall permit the evidence and any cross-examination relating thereto or evidence in rebuttal thereof to be taken down or transcribed in full, or otherwise preserved, unless it clearly appears to the Forum that the evidence is not admissible on any ground or unless the interest of justice otherwise requires.

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Any error or omission which does not prejudice a substantial right shall be disregarded by the Forum before, during and after trial. The Forum, however, at every stage of the action, including a timely application after trial, may consider and act upon any error of such a nature as to have been clearly capable of producing an unjust result, even though such error was not brought to its attention by a party.

Every party shall be entitled to be represented by counsel of his choice who shall be an Elk if reasonably available, otherwise counsel may be a non-Elk.

Rule 1.2.6 Continuity. The Forums of the Order shall be deemed always open for the transaction of all Judicial business. The Grand Forum year shall be co-extensive with the Grand Lodge year, viz., from the installation of a Grand Justice at the Annual Session of one year to the installation of a Grand Justice at the Annual Session of the following year.

Rule 1.2.7 Terms. Within each Grand Forum year there shall be at least 3 stated terms at times, places and durations fixed by the Chief Justice.

Rule 1.2.8 Jurisdiction. The Grand Forum shall have appellate jurisdiction over judgments rendered by Local Forums and Lodges and original jurisdiction in all other matters.

Rule 1.2.9 Clerk's Office. The Office of the Clerk of the Grand Forum, who shall be the Grand Secretary of the Order or his designee, shall be open to the Members of the Order for the transaction of all business of the Grand Forum at such times and days as shall be fixed by the Chief Justice. The Clerk shall maintain a single, continuous docket in which he shall enter the caption of all cases or matters pending before the Grand Forum in chronological order as of the date of filing of the Notice, Petition, Application or other first pleading of a party. The docket shall likewise reflect such additional information as may be directed by the Chief Justice of the Grand Forum.

Rule 1.3.0 Administrative Responsibility for Judicial Department; Quorum; Temporary Assignment. The Chief Justice of the Grand Forum shall be responsible for the administration of the Judicial Department of the Order. He shall preside over sessions and conferences of the Grand Forum and shall sign all orders and other papers on its behalf.

In the event of vacancy in the office of Chief Justice, the Senior Justice shall serve temporarily as Acting Chief Justice. Seniority shall be determined by order of appointment to the Grand Forum. If the Chief Justice is absent or unable to serve, the Grand Forum may direct that the Senior Justice serve temporarily as Acting Chief Justice.

Three members of the Grand Forum shall constitute a quorum. When necessary to constitute a quorum, to replace a Justice who is absent or unable to act, or to expedite the business of the Grand Forum, the Chief Justice may assign one or more former Justices of the Grand Forum and who consent thereto, to serve temporarily on the Grand Forum.

The Clerk of the Grand Forum and the Clerk of the Local Forum (who shall be the Secretary of the Lodge) shall submit to the Chief Justice of the Grand Forum such reports at such times as he requests.

The Chief Justice shall report to the Grand Lodge at its annual session on the state of the Judicial Department of the Order.

Rule 1.3.1 Opinions and Decisions; Filing; Publication. The original written Opinion and Decision handed down in each case, including letter and memorandum opinions and decisions, shall be filed with the Clerk of the Forum in which rendered and copies thereof sent to all parties and interested persons.

GRAND FORUM RULES

— Section II —

RULES GOVERNING APPELLATE PRACTICE

Rule 2.1 Appeals to the Grand Forum.

(a) As of Right.

Appeals may be taken to the Grand Forum from final judgments of Local Forums as of right in all cases involving its de novo and appellate jurisdiction as provided by Constitution and Statutes of the Order.

(b) On Certification.

Appeals may be taken to the Grand Forum in cases pending in Local Forums if the appeal presents a question of substantial importance to the Order which has not been but should be settled by the Grand Forum; or, if the appeal calls for an exercise of the Grand Forum's supervision, or in other matters, if the interest of justice requires.

(c) Forum Interlocutory Orders.

Appeals may be taken to the Grand Forum, by its leave, from interlocutory orders of Local Forums (1) when necessary to prevent irreparable injury; and (2) on certification by the Grand Forum to the Local Forum.

Rule 2.2 Who May Appeal. Any Member aggrieved by a final or interlocutory order or judgment entered by the Grand Exalted Ruler, or, a Presiding Justice of a Local Forum, or, by a Local Forum, may appeal, or, where appropriate, seek leave to appeal, to the Grand Forum.

Rule 2.3 Joint and Several Appeals An interested party jointly, severally or otherwise in a judgment, order, decision or action may join in an appeal therefrom or may appeal separately.

Rule 2.4 Cross Appeals An interested party may cross appeal as of right except that if an appeal is taken by leave of the Grand Forum, a cross appeal may not be taken from any other order or judgment without leave of the Grand Forum.

Rule 2.5 Time for Appeal

(a) Appeals from Executive Orders, Final Judgments and orders of a Presiding Justice of the Local Forum or the Local Forum shall be taken within the time provided by Statute of the Order. Service shall be deemed complete upon date and time transmitted by electronic transmission or in the case of regular mail determined by postmark.

(b) Applications for leave to appeal from interlocutory orders, decisions or actions shall be made within 10 days after entry of such order or decision or notice of such action. Service shall be deemed complete upon date and time transmitted by electronic transmission or in the case of regular mail determined by postmark.

Rule 2.6 Tolling of Time for Appeal and Certification. The running of the time for taking of an appeal and for the service and filing of a Notice of Petition for Certification shall be tolled:

(a) By the death or incapacitation of a party or by the death, incapacitation or disbarment, resignation or suspension of an Attorney of Record, but the time shall run anew from the date of death, incapacitation, disbarment, resignation or suspension; OR,

(b) By the timely filing and service of an application for rehearing made to the Grand Forum, but the remaining time shall again begin to run from the date of the entry of the Grand Forum Order denying such application.

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Rule 2.7 How to Appeal; Notice of Appeal; Contents; Form; Service; Filing. An appeal from an Executive Order, an order of the Presiding Justice of the Local Forum or the Local Forum is taken by serving a copy of a Notice of Appeal upon all parties who have appeared in the Action, and by filing the original with the Clerk of the Grand Forum and a copy with the Lodge Secretary. The Notice of Appeal may be in the form set forth in the Exhibits “G” and “M” of these Rules. The Notice of Appeal in every action shall contain a Certification of Service of a copy thereof on all parties and where required payment of filing fees or deposit for costs. The Certifications shall include a statement that a transcript of the proceedings has been or will be ordered and the cost thereof paid or adequately provided for. Together with the Notice of Appeal, the Appellant must file an Information Sheet in the form set forth as Exhibit “O” of these Rules.

Rule 2.8 Record on Appeal.

- (a) In any appeal to the Grand Forum from any proceeding in a Local Lodge, it shall be the duty of the Lodge Secretary to transmit to the Grand Secretary the complete record of proceedings in the matter in the Local Lodge, including pleadings, minutes, orders, transcripts of any testimony, exhibits, and other relevant papers in the Lodge records. The record shall be transmitted within thirty (30) days after copy of the notice is received by the Lodge Secretary.
- (b) The record on appeal shall consist of all papers on file in the Forum below or served by or upon any party, and all papers filed with or entries made on the record of the Grand Forum. All papers on file in the Forum below or served by or upon any party shall be certified as to accuracy by the Lodge Secretary. The record on Appeal shall also consist of the stenographic transcript or transcript of recorded testimony and the tape so transcribed of the proceedings, and the accuracy of those transcriptions shall be certified as to accuracy by the Presiding Justice of the Local Forum. The tape shall only be used to correct or supplement the record pursuant to Rule 2:10.
- (c) The record of proceedings sent by the Lodge Secretary to the Grand Secretary shall include certification that all parties to the appeal were notified in writing of the date on which the record of proceedings was sent.

Rule 2.9 Use of Record. The Clerk of the Grand Forum shall retain the Record on Appeal except that any party or attorney of a party, shall be permitted to make use of any portion of the Record and remove a copy thereof provided the original or a copy remains on file. The failure to return such Record may constitute contempt of the Grand Forum.

Rule 2.1.0 Correction or Supplementation of Record. If any party questions whether the Record fully and truly discloses what occurred in the Forum or Department below, he shall apply on motion to that Forum or Department to settle the Record. The Grand Forum on motions, may review such determination or may, on its motion, order a correction or supplementation of the Record or may direct the Forum or Department to do so.

Rule 2.1.1 Appeals from Interlocutory Orders; Judgments and Actions. Application for Leave to Appeal from interlocutory orders; judgments, and actions shall be made by serving and filing with the Forum, Presiding Justice or Department from which the Appeal is taken, and with the Clerk of the Grand Forum, a Notice of Motion for Leave to Appeal, within 10 days after entry of such order, judgment or Notice of Action. The filing of a motion for Leave to Appeal shall not stay the proceedings in the Forum or Department below, except on motion made to the Forum, Presiding Justice or Department which entered the order or initiated such action, or if denied, to the Grand Forum.

GRAND FORUM RULES

Rule 2.1.2 Statement of Reasons of Presiding Justice, Local Forum or Department; Findings. If the Presiding Justice, Local Forum or Department has not heretofore filed a written Statement of Reasons, or, if no verbatim record was made of any oral Statement of Reasons, the Presiding Justice, Local Forum or Department shall, within 10 days after receipt of the motion, file and transmit to the parties a written Statement of Reasons for the order, Judgment or Action, which may include a comment on whether or not the motion for Leave to Appeal should be granted, and may also amplify any Statement of Reasons previously made.

Rule 2.1.3 Briefs; Contents. Briefs of the parties shall contain the following material, under distinctive titles, arranged in the following order:

- (a) Table of Contents;
- (b) Table of Citations;
- (c) A concise procedural history including a statement of the type of case and reference to the order, Judgment or Action appealed from or sought to be reviewed or enforced;
- (d) A concise statement of the facts material to the issues on appeal in the form of a narrative chronological summary incorporating all pertinent evidence; and
- (e) Legal argument divided under appropriate headings.

Rule 2.1.4 Failure to File Brief; Consequences. If a party fails to file a brief or his brief fails to comply with the provisions of Rule 2:13, the Grand Forum may consider the appeal on the Record or deny oral argument or make such other order, including imposition of sanctions as it may deem appropriate.

Rule 2.1.5 Letter Brief; Statement in Lieu of Brief. In lieu of filing a brief conforming to the requirements of Rule 2:13, a party may file a letter brief not exceeding 10 pages and complying with provisions (a), (c), (d) and (e) of said Rule. In lieu of filing a brief conforming to the requirements of Rule 2:13, or filing a letter brief, a party may file a statement in lieu of either brief but only in a case where the sole issue on appeal is an allegedly illegal sentence.

Rule 2.1.6 Format of Briefs and Other Papers; Length. All briefs, motions and other papers may be printed or reproduced by any other method capable of providing plainly legible copies. Paper shall be of good quality. If type is used, the size shall be pica or larger and double spaced. Paper shall be bound or stapled along the left margin or in the upper left hand corner.

The initial brief of parties or other papers shall not exceed 25 pages if typed or otherwise reproduced and reply briefs shall not exceed 15 pages if typed or otherwise reproduced. These page limitations shall be exclusive of tables of contents and citations, and may be relaxed by leave of the Forum.

Rule 2.1.7 Time for Serving and Filing Briefs; Appendices; Transcript.

- (1) The Appellant shall serve and file his brief and appendix within 14 days after (a) filing or delivery to him of the transcript if a record was made of the proceedings below; (b) filing of a settled statement of the proceedings if no record was made; or, (c) filing of Notice of Appeal if no transcript or settled statement is to be filed.
- (2) The Respondent shall serve and file his brief and appendix, if any, within 14 days after the service of the Appellant's brief.
The Appellant may serve and file a reply brief within 10 days after the service of the Respondent's brief.
- (3) The Secretary of the Lodge or other custodian of the Record of the proceedings below, if any shall within 30 days after service of the Notice of Appeal upon him, cause the transcript of the proceedings below to be prepared, certified as to accuracy by the Presiding Justice and sent to the Clerk of the Grand Forum. The cost of the transcript shall be paid by the Appellant and the Respondent shall be entitled to receive a copy upon payment of the cost thereof.

GRAND FORUM RULES

- (4) The time provisions of this Rule notwithstanding, the Grand Forum may enter a separate scheduling order in any case.
- (5) No briefs other than those specified herein shall be filed or served without leave of the Grand Forum.

Rule 2.1.8 Relief from Payment of Fees and Costs. If a Member, by reason of economic hardship, seeks relief from the payment of fees and deposit for costs, the Member may file a verified petition supplied by the Grand Secretary's Office setting forth the facts relied upon along with the supporting documentation, and the Chief Justice or his designee if satisfied of the facts of economic hardship, shall enter an appropriate order waiving the payment of fees and deposit for costs.

Rule 2.1.9 Miscellaneous Proceedings Pending Appeal.

(1) Control By Appellate Forum.

The supervision and control of the proceedings on appeal or certification shall be in the Grand Forum from the time the appeal is taken or the Notice of Petition for Certification filed unless otherwise provided by these Rules. The Grand Forum may at any time entertain a motion for directions to the Forum or Presiding Justice below or to modify or vacate any order made by such Forum or Presiding Justice.

(2) Proceedings on Remand.

The Grand Forum may, if it retains jurisdiction of any matter on appeal, remand to the Forum, Presiding Justice or Department of First Instance for any appropriate action therein and thereby, and direct that, after execution of the remand, the proceedings be returned to the Grand Forum for disposition.

(3) Extension & Acceleration of Time and Adjournments.

The time fixed by these Rules for the taking of any action or proceeding on appeal or certification may not be extended by consent of the parties. Such extension may, however, be granted by order of the Grand Forum unless otherwise provided by Rule. The time schedule may be accelerated on the Forum's own motion or on the motion of a party, which may be made ex parte. Adjournments, extensions and accelerations of time may be granted by the Chief Justice of the Grand Forum or any Justice designated by him.

(4) Stay of Proceedings.

Neither an appeal, nor motion for leave to appeal, nor a proceeding for certification, shall stay proceedings in any Forum or Department, but a stay with or without terms may be ordered in any action or proceeding. A motion for a stay shall be made by filing a notice thereof with the Chief Justice of the Grand Forum, with copy to the Clerk of the Forum. When necessary, temporary relief, stays and emergency orders may be granted, with or without notice, by the Chief Justice of the Grand Forum, or a Justice designated by him, and shall remain in effect unless and until the Grand Forum, en banc, acts thereon.

(5) Sanctions for Non-Compliance with Rules.

Failure to abide by these Rules or to properly prosecute or defend an Appeal or proceeding for certification shall be grounds for such action as the Grand Forum deems appropriate, including but not limited to, adjudication of contempts, dismissal of appeal or proceedings, imposition of costs or fees, or such other penalty as may be assessed personally against a Member.

GRAND FORUM RULES

Rule 2.2.0 Scope of Revision.

(1) *Standard of Review.*

The issue of whether a Forum decision was against the weight of the evidence shall not be recognizable on appeal and shall not be reversed unless it clearly appears that there was a miscarriage of justice under the Law.

(2) *Notice of Trial Errors.*

Any error or omission shall be disregarded by the Grand Forum unless it is of such a nature as to have been clearly capable of producing an unjust result. The Grand Forum may, in the interest of justice, notice plain error not brought to the attention of the Presiding Justice, Local Forum or Department.

(3) *Review of Sentence.*

If a decision or judgment or conviction is reversed for error in sentence imposed, the Grand Forum may impose such sentence as should have been imposed or may remand the matter to the Presiding Justice, Local Forum or Department for proper sentence.

(4) *Jurisdiction.*

The Grand Forum shall exercise such original and appellate jurisdiction as is necessary to the complete determination of any matter on review within the judicial powers vested in the Grand Forum as those powers are construed in the Constitution of the United States by the Supreme Court of the United States.

Rule 2.2.1 Argument; Decisions and Opinion; Rehearing.

(1) *Argument.*

Cases shall be argued or submitted for consideration without argument in the order in which docketed unless advanced on motion of the Grand Forum or any party. Request for argument shall be submitted by separate paper filed with the Clerk who shall notify the parties of the decision upon the request. If argument is granted, the Clerk shall notify the parties of the assigned argument date and time. The Appellant shall be entitled to open and conclude argument. Each party shall be allowed 30 minutes, but the Grand Forum may extend or terminate the argument at any time it deems the issues adequately covered.

(2) *Decisions and Opinion.*

Upon the final determination of every Appeal or Hearing, the Grand Forum shall file a written Opinion. A Justice dissenting or concurring as to result only may file a separate Opinion stating the reasons for his action. The Opinion and Decision shall state whether the judgment, order or determination below is affirmed, reversed or modified, or it may provide for any decision dispositive of the action. Forthwith upon the filing of the Opinion and Decision, the Clerk of the Grand Forum shall mail copies thereof to all interested parties.

(3) *Rehearing.*

Within 30 days after entry of Decision, unless such time is enlarged by order of the Grand Forum, a party may apply for a Rehearing and a recall of the Decision by filing and serving a motion for such purpose. The motion shall contain a statement of the ground relied upon: a certificate of the moving party that is submitted in good faith and not for purposes of delay; and shall be supported by brief. An answer shall be filed within 10 days of service of the motion and may be supported by brief. A reply brief may be submitted within 10 days of service of an answering brief. The motion will not be argued orally unless directed by the Grand Forum. The motion will be granted only if it is moved by a Justice who concurred in the Decision and a majority of the Grand Forum so determines. It may be granted in whole or in part, and on terms. The Grand Forum may summarily redetermine the appeal, amend its opinion and decision or deny the motion.

GRAND FORUM RULES

Rule 2.2.2 Appeals from Club suspension orders under Section 16.040.

- (1) This Rule shall apply to suspension of a member from club, social parlor or other facility privileges by a supervising or managing body entered pursuant to Section 16.040 of the Laws of the Order.
- (2) A suspended member, either without first appealing to the Lodge, or after the adverse conclusion of an appeal to the Lodge, may file an appeal to the Grand Forum limited to the issue whether due process was denied the member by the supervising or managing body. The Grand Forum will not consider the merits or propriety of the suspension as a factual matter, but will consider only possible violation of the due process rights of the member.
- (3) Where a member has filed an appeal to the Lodge, appeal to the Grand Forum will not be accepted until after the Lodge has completed its action.
- (4) Appeal to the Grand Forum must be filed (a) within 30 days after receipt of the written notice of suspension by the supervising body; or (b) within 30 days after the date of the Lodge meeting to consider an appeal to the Lodge (whichever is applicable in the particular case).

— Section III —

RULES GOVERNING ORIGINAL JURISDICTION

Rule 3.1 Original Jurisdiction of Grand Forum.

- (a) Complaints against a Lodge by another Lodge.
- (b) Complaints against a Lodge by a Member of the Order.

Rule 3.2 Complaint. The original jurisdiction of the Grand Forum shall be invoked by a written complaint filed with the Clerk of the Grand Forum. The complaint may be upon information and belief and must be signed and verified under the Obligation of the Order. A copy of the complaint must be served upon the Lodge against whom the complaint is filed. Together with the Complaint, the Complainant must file an Information Sheet in the form set forth as Exhibit “O” of these Rules.

Rule 3.2.1 The complaint must specify in concise terms with reasonable certainty the facts and circumstances, with the date, place and particulars of the alleged offense.

Rule 3.3 Designation of Grand Justice. The Chief Justice shall designate a Grand Justice to preside at the trial to be held on the complaint.

Rule 3.4 Motions. Motions to dismiss or make more specific shall be filed within fifteen (15) days after service of the complaint.

Rule 3.4.1 The adverse party to the motion shall have fifteen (15) days after service of the motion to file an answer to the motion.

Rule 3.4.2 The moving party shall have five (5) days after service of the answer to file a reply to the answer.

Rule 3.4.3 The Grand Justice, after ruling on the motion filed, shall set a trial date as expeditiously as possible at a time agreeable to all parties but in no event shall the trial be commenced more than ninety (90) days after the ruling on the last motion unless continued for good cause by the Grand Justice.

GRAND FORUM RULES

Rule 3.5 Trial. The trial shall be held in the place, on the date and at the time ordered by the Grand Justice.

Rule 3.5.1 The trial shall be conducted in accordance with Section 7.060 of the Laws of the Order.

Rule 3.6 Testimony. The testimony produced at the trial shall be recorded. The Lodge or Member who files the Complaint shall be responsible to obtain and pay the cost of a court reporter to record the testimony at the trial.

Rule 3.7 Decision. The Grand Justice presiding at the trial shall, after the conclusion of the trial and as expeditiously as possible, render a decision.

Rule 3.8 Rehearing. A request for a rehearing may be made as provided for in Section 7.060 of the Laws of the Order. The motion for rehearing shall be filed within thirty (30) days after the decision has been rendered. The motion shall contain a statement of the grounds relied upon, a certificate of the moving party that it is submitted in good faith and not for purposes of delay and shall be supported by a brief. An answer shall be filed within ten (10) days of service of the motion and may be supported by a brief. A reply brief may be submitted within ten (10) days of service of the answering brief.

Rule 3.8.1 If a rehearing is requested, the testimony shall be transcribed. The cost of transcribing the testimony shall be paid by the party requesting the rehearing.

Rule 3.8.2 The motion for rehearing shall be ruled upon by the entire Grand Forum.

— Section IV —

RULES GOVERNING DE NOVO JURISDICTION

Rule 4.1 De Novo Jurisdiction of Grand Forum.

(a) An appeal of an Executive Order.

(b) An appeal of a Local Forum verdict by the Grand Exalted Ruler.

Rule 4.2 Notice of Appeal — Executive Order. The Notice of Appeal of an Executive Order shall be filed with the Grand Secretary within 10 days of receipt of the Order. Together with the Notice of Appeal, the Appellant must file an Information Sheet in the form set forth as Exhibit “O” of these Rules.

See “Exhibit M” for form of Notice of Appeal from Executive Order.

Rule 4.3 Notice of Appeal — Local Forum Verdict by Grand Exalted Ruler. The Notice of Appeal by the Grand Exalted Ruler from a Local Forum verdict shall be filed with the Secretary of the Lodge and the Grand Secretary within 30 days after receipt of written notice of the judgment of the Local Forum but in no case after 240 days from the date the judgment was entered upon the minutes of the Lodge.

Rule 4.4 Deposit. On an appeal from an Executive Order, a check or money order in the amount of \$1,000.00 payable to the Grand Secretary shall be attached to the Notice of Appeal as a deposit to cover the cost of recording and transcribing the testimony at the trial. Any refund of the deposit will be promptly made by the Grand Secretary upon receipt of the decision of the Grand Forum.

GRAND FORUM RULES

Rule 4.5 Designation of Grand Justice. The Chief Justice shall designate a Grand Justice to preside at the trial to be held on the appeal.

Rule 4.6 Motions. Motions to dismiss or make more specific shall be filed within fifteen (15) days after service of the Notice of Appeal.

Rule 4.6.1 The adverse party to the motion shall have fifteen (15) days after service of the motion to file an answer to the motion.

Rule 4.6.2 The moving party shall have five (5) days after service of the answer to file a reply to the answer.

Rule 4.6.3 Copies of all documents shall be sent to the Grand Secretary and served on the opposing party or counsel by regular first class mail or by personal service. The date of mailing or acknowledgement of personal service will establish the date of service for the purpose of computing time limitations.

Rule 4.6.4 The Grand Justice, after ruling on the motions filed, shall set a trial date as expeditiously as possible at a time agreeable to all parties but in no event shall the trial be commenced more than ninety (90) days after the ruling on the last motion unless continued for good cause by the Grand Justice.

Rule 4.7 Trial. The trial shall be held in the place, on the date and at the time ordered by the Grand Justice.

Rule 4.7.1 The trial on an appeal of an Executive Order shall be conducted in accordance with Section 7.070 of the Laws of the Order. The trial on an appeal by the Grand Exalted Ruler shall be in accordance with Section 8.100 of the Laws of the Order.

Rule 4.8 Electronic testimony. Testimony may be taken by electronic means (telephonic or visual) at the discretion of the presiding Grand Justice. When permitted, the requesting party shall be responsible to make all necessary arrangements for such electronic testimony at his or her expense.

Rule 4.9 Subpoenas.

- (1) Subpoenas will issued only for witnesses who are reasonably expected to have personal first-hand knowledge of the facts stated in the Executive Order and to provide relevant, material, and admissible testimony. It is the burden of the requester of a subpoena to show that this condition is met.
- (2) Subpoenas can be issued to Members of the Lodge to which the Executive Order applies or of which the individuals subject to the Executive Order are members.
- (3) Subpoenas can be issued to Members of any other Lodge in the same District as the Lodge to which the Executive Order applies or of which the individuals subject to the Executive Order are members.

For such subpoenas, it will be required that the issuer of the subpoena tender to those witnesses, upon the service of the subpoena an amount of the greater of (a) the Grand Lodge per diem travel allowance, or (b) the mileage allowance set for Grand Lodge travel.
- (4) For witnesses outside the District who meet the conditions of paragraph 1, subpoenas will not be issued, but allowance may be granted for depositions under Section 8.120 of the Laws of the Order upon proper showing.

GRAND FORUM RULES

- (5) Subpoena duces tecum for documents in the possession, custody, or control of any person or entity will be issued only for documents identified individually or by specific category which the requester contends it does not have and needs for its case. For such a specific request, disclosure may be allowed where shown to be necessary to afford the requester due process.

Rule 4.1.0 Testimony. The testimony produced at the trial shall be recorded and transcribed with a copy submitted to the Clerk of the Grand Forum (Grand Secretary). The Clerk of the Grand Forum shall distribute the transcript to all Grand Justices for review.

Rule 4.1.1 Decision. The Grand Forum en banc shall, after the conclusion of the trial, as expeditiously as possible, render a decision.

— Section V —

APPEALS AND HEARINGS ON CERTIFICATION TO THE GRAND FORUM

Rule 5.1 Certification by Grand Forum. The Grand Forum may on its own motion certify actions or proceedings for Hearing or Appeal.

Rule 5.2 Certification of Matters Pending in Local Forums, Local Lodges and Departments of the Order. A motion with supporting brief or memorandum for certification of an action or proceeding pending in any Local Forum, Local Lodge or Department of the Order shall be served and filed with the Clerk of the Grand Forum. Within 10 days after service of the motions, an opposing party may serve and file an answering brief or memorandum in opposition. The matter shall proceed to disposition upon the record without argument unless ordered by the Grand Forum.

Rule 5.3 Grounds for Certification. Certification will be granted only if the Hearing or Appeal presents a question or issue of general importance to the Order which has not been but should be settled by the Grand Forum; if the issue is in conflict with any other Decision of the Grand Forum or calls for an exercise of Grand Forum supervision; and, in other matters if the interest of Justice requires.

Rule 5.4 Certification and Appeals. Where a party seeks certification or appeals from any decision of a Local Forum, Presiding Justice thereof, Local Lodge or Department, he shall state in the motion for certification all questions he intends to raise on appeal. The denial of certification may be deemed to be a summary dismissal of the appeal and the Clerk of the Grand Forum, at its discretion, shall enter an order dismissing the appeal, unless the Grand Forum otherwise orders.

Rule 5.5 Granting or Denial of Certification. A motion for certification shall be granted on the affirmative vote of 2 or more Justices. The Clerk shall enter an order granting or denying the certification in accordance with the Grand Forum's Decision and shall mail copies thereof to the Clerk of the Forum below and to all parties or their attorneys.

Rule 5.6 Proceedings after Certification Granted. If certification is granted, the matter shall be deemed pending Hearing or Appeal in the Grand Forum and the entire case or matter shall be before the Grand Forum for review and disposition unless the Grand Forum otherwise orders. Further proceedings shall be had in accordance with rules applicable to hearings and appeals as of right, unless otherwise ordered by the Grand Forum.

GRAND FORUM RULES

— Section VI —

RULES REGARDING COMPLAINTS FILED PURSUANT TO SEC. 9.080, LAWS OF THE ORDER

Rule 6.1 Proceeding Against Member in Grand Forum; Service of Notice by Grand Secretary. Whenever an Unaffiliated Elk has been finally convicted, entered a plea of guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude, and said Member's Lodge is not in existence, such Member shall be proceeded against in the Grand Forum. When such final conviction has been brought to the attention of the Grand Secretary, it shall be the duty of the Grand Secretary to obtain a certified transcript of the Judgment and Sentence and the same shall be deemed a complaint against the Member convicted. The Grand Secretary shall immediately give thirty (30) days notice to the Member by regular mail and by certified mail, return receipt requested, in sealed envelopes, postage prepaid addressed to the person upon whom it is served, at his last address of record.

Rule 6.2 Demand for Hearing by Member. Said Member may, within the thirty (30) day period provided for and stated in Sec. 9.090, Laws of the Order, file a written demand for a hearing before a Justice of the Grand Forum.

Rule 6.3 Proceedings before Grand Forum. Upon the filing of such demand, the matter shall proceed before a Justice of the Grand Forum as in other cases where a complaint has been filed, and upon review by the Grand Forum such action as is appropriate will be taken and an order consistent therewith will be entered by the Grand Forum.

Rule 6.4 Failure to Demand Hearing; Order of Expulsion. If said Member fails to file the demand for hearing, the Chief Justice of the Grand Forum shall enter an order expelling the Member from the Order, which shall be entered in the records of the Grand Lodge, and the same shall have the same force and effect as a final decision and sentence of a Local Forum.

Rule 6.5 Questions before Grand Forum. In a hearing before a Justice of the Grand Forum as provided herein, the questions before the Grand Forum are limited only to determining whether or not said Member has finally been convicted or entered a plea of guilty or a plea of nolo contendere; and to whether or not the Member so charged is in fact the one and same person who was convicted or entered a plea of guilty or a plea of nolo contendere to a felony or a misdemeanor involving moral turpitude.

ORDER

IT IS ORDERED THAT THE FOREGOING RULES GOVERNING THE GRAND FORUM OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA ARE ADOPTED TO BE EFFECTIVE JULY 4, 2018.

Adopted by the Grand Forum on July 4, 2018 at San Antonio, Texas:

Jerome C. Shapiro, Chief Justice
Louis W. Ringger, Senior Justice
Robert L. Duitsman, Justice
Vito C. Caruso, Justice
Gregory P. Beacom, Justice

Attest: Bryan R. Klatt, Clerk

LOCAL FORUM RULES

SCOPE

These Rules supplement the Rules of the Grand Forum and together with the Laws of the Order and the decisional law of the Grand Forum, shall govern the procedure in all proceedings in the Local Forums of the Order.

Rule 1.1. These Rules shall be referred to as “Local Forum Rules” and shall be cited, for example, as “L.F.R. 1.2.”

Rule 1.2. The Laws of the Order shall be cited, for example, as “Sec. 8.010, Laws of the Order.”

THE COMPLAINT

Rule 2.1. The initial pleading shall be the Complaint, which shall be a concise and definite written statement of the essential facts constituting the offense charged. It shall comply with the provisions of Sec. 8.030, Laws of the Order. For each offense charged, the Complaint shall set forth the Statute allegedly violated. The facts alleged shall govern the validity of the Complaint. A guide Form of Complaint is set forth as “Exhibit C” to these Rules.

Rule 2.2. Not more than one Accused shall be charged in a single Complaint.

Rule 2.3. Two or more offenses may be joined in one Complaint, with each offense stated in a separate count, when the offenses:

(a) are of the same or similar character; or

(b) are based on the same conduct or on a series of acts connected together or constituting parts of a single scheme or plan.

Rule 2.4. The Presiding Justice may order consolidation for trial of two or more Complaints charging related offenses based on the same conduct when such consolidation will not prevent a fair determination of the guilt or innocence of each Accused of each offense.

Rule 2.5-1. Whenever a Member of the Order has been finally convicted, or entered a plea of guilty or nolo contendere to a felony, or a misdemeanor involving moral turpitude, in any state or federal court, and such conviction has become final by reason of no appeal having been taken, or in case of an affirmance upon appeal, it shall not be necessary to file a formal Complaint. When such final conviction has been brought to the attention of the Lodge of which such person is or was a Member, it shall be the duty of the Secretary to obtain a certified transcript of the judgment and sentence and the same shall be deemed a Complaint against the Member convicted. Notice shall be sent to the Member in the manner and form as provided in Sec. 9.090 of the Laws of the Order.

Rule 2.5-2. Said Member may, within the 30-day period stated in Sec. 9.090, Laws of the Order, file a written demand for a hearing before the Local Forum.

Rule 2.5-3. Upon the filing of such demand, the matter shall proceed before the Local Forum as in other cases when a Complaint has been filed.

Rule 2.5-4. If the said Member fails to file a demand for hearing, the Presiding Justice of the Local Forum shall enter an order expelling the Member from the Order, which shall be entered in the minutes of the Lodge, and shall have the same force and effect as a final decision and sentence of the Local Forum.

Rule 2.5-5. In a hearing before a Local Forum as provided herein, the questions before the Local Forum are limited only to determining whether or not said Member has finally been convicted, entered a plea of guilty or a plea of nolo contendere and to whether or not the Member so charged is in fact the one and same person who was convicted or entered a plea of guilty or a plea of nolo contendere to a felony or a misdemeanor involving moral turpitude.

MOTIONS

Rule 3.1. All motions shall be in writing unless made during a hearing or trial, and shall state the specific grounds therefor, and shall set forth the relief sought.

Rule 3.2. The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these Rules.

Rule 3.3. Any objection raising a question of procedure prior to trial must be made by motion and filed with the Presiding Justice of the Local Forum for decision and order thereon. Appeal from such interlocutory order shall be governed by Rules 2.11 and 2.12, Rules of the Grand Forum.

LOCAL FORUM RULES

Rule 3.4. The Accused shall be entitled to timely file alternative Motions to Dismiss or Make More Specific. Guide forms of motions are set forth as “Exhibits D and E” to these Rules.

Rule 3.5. A Motion to Dismiss the Complaint may be based upon, but not limited to, any of the following grounds:

Rule 3.5-1. That if all of the allegations contained therein be taken as true, the same would not, if proven, constitute an offense under the Laws of the Order.

Rule 3.5-2. That the Local Forum is without jurisdiction over the Accused or the subject matter of the Complaint.

Rule 3.5-3. That the Accuser does not have the legal capacity to make the Complaint.

Rule 3.5-4. That the proceeding has not been commenced within the time limited by Statute.

Rule 3.5-5. That there has been a misjoinder of actions or parties in the Complaint.

Rule 3.6. A motion to make the Complaint more specific shall specify the allegations that are stated with uncertainty. The motion shall point out the defects complained of and the details desired.

THE TRIAL

Rule 4.1. The Trial shall proceed as set forth in Sec. 8.100, Laws of the Order.

Rule 4.2. The Local Forum shall consist of the Presiding Justice and four members, all of whom shall be selected as provided by Statute (*Sec. 8.040, Laws of the Order*). There is no statutory provision for alternate members.

Rule 4.3. The conduct of the Trial shall be governed by the provisions of Sec. 8.130, Laws of the Order.

Rule 4.4. In all Trials, the testimony of witnesses shall be taken orally in open session of the Local Forum, unless otherwise provided by Rule or Statute.

Rule 4.5. All Trials before the Local Forum shall be duly recorded in the manner provided by Sec. 8.090, Laws of the Order.

Rule 4.6-1. All witnesses shall be sworn prior to giving testimony, which said oath shall be administered to each witness individually. The trial record must affirmatively show compliance with this Rule. (*See “Exhibit F-1”*)

Rule 4.6-2. A solemn affirmation shall be accepted from witnesses who are not Members of the Order.

Rule 4.6-3. All Local Forum members shall be sworn prior to the commencement of the Local Forum trial. (*See “Exhibit F-2”*) The trial record must affirmatively show compliance with this Rule.

ADMINISTRATIVE PROVISIONS

Rule 5.1. The Secretary of the Lodge shall send to the Grand Secretary a brief summary of all Local Forum proceedings which shall contain the following information:

- (a) The names of the Accuser and Accused.
- (b) A brief summary of the nature of the charge(s).
- (c) The disposition of the case.

ORDER

IT IS ORDERED THAT THE FOREGOING LOCAL FORUM RULES ARE ADOPTED TO BECOME EFFECTIVE JULY 10, 2014.

DATE: July 10, 2014
New Orleans, Louisiana

For the Grand Forum

Robert M. Goolrick, Chief Justice
Lee Davis Kell, Senior Justice
Priscilla Anne Schwab
James R. Deamud
Jerome C. Shapiro

Attest: Bryan R. Klatt, Clerk

EXHIBIT "A"

FORM OF NOTICE OF INTENT TO FILE COMPLAINT

_____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS U.S.A.

Accuser

vs.

Accused

NOTICE OF INTENT
TO
FILE COMPLAINT
Pursuant to Sec. 8.015,
Laws of the Order

_____, Accuser, a Member in good standing in
_____ Lodge No. _____, B.P.O. Elks, under the Obligation
of the Order, hereby serves upon the Secretary and gives _____, a
Member of _____ Lodge No. _____, B.P.O. Elks, notice
of his/her intent to prefer charges by filing a Complaint against the Accused
charging him/her with the offense(s) of

*[here set forth the text and section of the Statute allegedly violated,
as for example: "Violation of his Obligation, Sec. 9.070(h), Laws of the
Order ... in that he, the Accused did, on or about ..." (here specify the
date, place and particulars constituting the offense to be charged).]*

DATED: _____

(Signed) _____
Accuser

_____, under the Obligation of the Order, says that
he/she is the above named Accuser, that he/she has read the foregoing Notice
of Intent to File Complaint, knows the contents thereof, and believes the same
to be true.

(Signed) _____
Accuser

EXHIBIT "B"

**FORM OF WRITTEN MEDIATION STATEMENT REQUIRED
BY SEC. 8.015(e),
LAWS OF THE ORDER**

_____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS U.S.A.

Accuser

FORM OF MEDIATION
STATEMENT
vs. Pursuant to Sec. 8.015(e),
Laws of the Order

Accused

_____, the Mediator, a Member in good standing in
_____ Lodge No. _____, B.P.O. Elks, under the
reporting requirements of Sec. 8.015 of the Laws of the Order, hereby reports
as follows:

1. Accuser's name and address:
2. Accused's name and address:
3. Date Notice of Intent filed with Lodge Secretary:
4. Date Lodge Secretary served copy of Notice of Intent on Accused:
5. Date Mediator was notified of filing of Notice of Intent:
6. Date Mediator contacted Accused and Accuser:
7. Date Mediation actually held:
8. If Mediation continued, date continued to:
9. Results of Mediation: _____

Dated

Lodge Mediator

Accuser

Accused

EXHIBIT "C"

FORM OF COMPLAINT IN LOCAL FORUM

LOCAL FORUM OF _____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS U.S.A.

Accuser

vs.

COMPLAINT

Accused

_____, Accuser, a Member in good standing in _____
Lodge, No. _____, B.P.O. Elks, under the
Obligation of the Order, hereby accuses _____, a Member of _____
Lodge No. _____, B.P.O. Elks, with the
offense(s) of

*[here set forth the text and section of the Statute allegedly
violated, as for example: "Violation of his Obligation — Sec.
9.070(h), Laws of the Order"]*

in that the Accused did on or about

*[here specify the date, place and particulars constituting
the offense charged]*

DATED: _____

(Signed) _____

Accuser

_____, under the Obligation of the Order,
says that he/she is the above named Accuser, that he/she has read the foregoing
Complaint, knows the contents thereof, and believes the same to be true. I
am submitting to the Lodge Secretary a check or money order in the amount
of \$100.00 as a deposit against the costs of the Lodge.

(Signed) _____

Accuser

EXHIBIT "D"

FORM OF MOTION TO MAKE MORE SPECIFIC

LOCAL FORUM OF _____ LODGE, NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS U.S.A.

Accuser

vs.

MOTION TO MAKE
COMPLAINT MORE SPECIFIC
BY AMENDMENT

Accused

_____, the Accused, moves for an order
requiring the following allegations of the Complaint herein

*[here specify the allegations by reference thereto, the
defects complained of, and the details desired]*

be made more definite and certain by amendment for the reason that the Com-
plaint does not sufficiently inform the undersigned to enable me to properly
defend myself.

DATED: _____

(Signed)

Accused

EXHIBIT "E"

FORM OF MOTION TO DISMISS

LOCAL FORUM OF _____ LODGE, NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS U.S.A.

Accuser

vs. MOTION TO DISMISS

Accused

_____, the Accused, moves that the Complaint be
Dismissed on the following grounds:

[here set forth any grounds for dismissal]

DATED: _____

(Signed) _____
Accused

EXHIBIT "F-1"

FORM OF OATHS FOR WITNESSES

Oath to be administered to an Elk Member:

“Do you solemnly promise and swear, under your Obligation as an Elk, that the testimony you are about to give is the truth and nothing but the truth?”

Oath to be administered to a Non-Elk:

“Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth, so help you God?”

Affirmation for a Non-Elk who declines to take an oath:

“Do you affirm that the testimony you are about to give is the truth and nothing but the truth?”

EXHIBIT "F-2"

**FORM OF OATH FOR
LOCAL FORUM MEMBERS**

“Do each of you, as a designated member of this Local Forum, solemnly promise and declare, under your Obligation as an Elk, that you will truly try and determine the matter before this Local Forum and will make determination herein for the good of the Order?”

EXHIBIT "G"

**NOTICE OF APPEAL FROM DECISION
IN LOCAL FORUM**

**[IMPORTANT: Complete and File Information Sheet
(Exhibit "O") with your appeal]**

Name

Appellant,

vs.

APPEAL FROM
LOCAL FORUM

Name

Respondent.

NOTICE IS GIVEN THAT _____, [Appellant-Accused] *or* [Appellant-Accuser] appeals to the Grand Forum of the Benevolent and Protective Order of Elks from the [verdict and sentence] *or* [the order dismissing the Complaint] of the Local Forum of _____ Lodge No. _____ B.P.O. Elks, in accordance with Sec. 8.220, Laws of the Order.

This Appeal is being filed with the Grand Secretary by an Accused within 30 days after judgment is entered in the minutes of the Lodge, or by an Accuser within 30 days after the order to Dismiss the Complaint is reported to or entered in the minutes of the Lodge.

If applicable, I am submitting to the Lodge Secretary a check or money order payable to the Lodge in the amount of \$250.00 as a deposit toward the costs of transcription of the recorded testimony, and will pay any balance of those costs upon receipt of notice thereof.

Appellant

I CERTIFY that a copy of this Notice of Appeal has been served upon the Secretary of _____ Lodge No. _____ and upon the Respondent on _____, _____.

Appellant

EXHIBIT "H"

NOTICE OF APPEAL FROM LODGE ACTION

**[IMPORTANT: Complete and File Information Sheet
(Exhibit "O") with your appeal]**

Name

Appellant,

vs.

APPEAL FROM
LODGE ACTION

Name

Lodge No. _____

Respondent.

NOTICE IS GIVEN THAT _____, Appellant appeals to the Grand Forum of the Benevolent and Protective Order of Elks from the Lodge action shown below (select):

- (1) Removal from Office under Statutes Sec. 12.140 or 12.141; *OR*
- (2) Suspension of membership for indebtedness under Statutes Sec. 14.070

taken by _____ Lodge No. _____ B.P.O. Elks.

This Appeal is being filed with the Grand Secretary by the Appellant within 30 days after the effective date of the Lodge action.

Appellant

I CERTIFY that a copy of this Notice of Appeal has been served upon the Secretary of _____ Lodge No. _____ on _____, _____.

Appellant

EXHIBIT "I"

[Lodge letterhead]

[Date]

[Name and address of Member]

**NOTICE TO APPEAR BEFORE THE HOUSE COMMITTEE OF
_____ LODGE # _____
AT A SUSPENSION HEARING PURSUANT TO GLS 16.041**

Dear (Name of Member),

Pursuant to Grand Lodge Statute Section 16.041, the members of the house committee/Managing Body of (Lodge name) will hold a hearing on (date) at (time) at the Lodge to determine if your club privileges are to be suspended, and if so, for how long, which can be for up to one year.

The proposed suspension of your club privileges arises from an incident which occurred at the Lodge on (date) whereby you allegedly:

[Describe in detail the conduct that forms the basis for the proposed suspension.]

You are entitled to appear at the hearing to present any witnesses, facts, information, defenses or mitigating factors concerning the incident, which you want the house committee/Managing Body to be aware of before they decide whether to suspend your club privileges.

Please take notice that any suspension which may be imposed will be applicable to and enforced by all Lodges of the Order.

Fraternally yours,

[Name of person signing the letter;
a contact phone number is optional]

[Please note, the letter must be sent to the member by certified mail, return receipt requested, and should also be sent by regular 1st class mail at the same time.]

EXHIBIT "J"

[Lodge letterhead]

[Date]

[Name and address of Member]

**NOTICE OF SUSPENSION OF YOUR CLUB PRIVILEGES
PURSUANT TO GLS 16.041**

(Name of Member),

PLEASE BE ADVISED THAT YOUR CLUB PRIVILEGES HAVE BEEN SUSPENDED FOR A PERIOD OF _____.

The suspension of your club privileges was decided by the house committee/ Managing Body of the Lodge at the hearing held on (date) after careful consideration of all facts and information presented at the hearing.

THE SUSPENSION OF YOUR CLUB PRIVILEGES IS EFFECTIVE IMMEDIATELY AND APPLIES TO AND IS ENFORCIBLE IN ALL LODGES OF THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS.

During the period of suspension, you are not permitted to attend any social functions of this or any other Elks Lodge or be present in, use or enjoy the social quarters, social parlor, lounge or bar area of this or any other Lodge of the Benevolent and Protective Order of Elks. To do so would be a violation of the suspension which may subject you to further disciplinary actions.

This is not a suspension of your membership in the Benevolent and Protective Order of Elks but rather a suspension of your "club privileges." Therefore, during the period of suspension, you are allowed to attend Lodge meetings and be present in the Lodge for official Lodge business; however, you cannot at any time visit or be present in the social parlor, lounge or bar area of the Lodge before or after the meetings and may not attend any social functions of the Lodge.

If you disagree with this action you have the right to appeal this decision to the Lodge for consideration by the membership pursuant to G.L. Statue 16.041. If you wish to appeal, you must notify the Lodge Secretary in writing within ten (10) days of your receipt of this Notice of Suspension.

Fraternally,

[NOTE: This letter should be typed up on Lodge letterhead and be signed by the House Committee Chairperson, the Exalted Ruler, or Lodge Secretary. The letter must be sent to the member by certified mail, return receipt requested, and it is recommended that the letter should also be sent by regular 1st class mail at the same time.]

EXHIBIT "K"

NOTICE OF APPEAL FROM CLUB SUSPENSION

**[IMPORTANT: Complete and File Information Sheet
(Exhibit "O") with your appeal]**

Name

Appellant,

vs.

APPEAL FROM
CLUB SUSPENSION

Name

Respondent.

NOTICE IS GIVEN THAT _____, Appellant, appeals to the Grand Forum of the Benevolent and Protective Order of Elks from the suspension of his/her Club privileges in _____ Lodge No. _____ B.P.O. Elks in violation of his/her due process rights.

This Appeal is being filed with the Grand Secretary by the Appellant within 30 days after the effective date of the suspension.

Appellant

I CERTIFY that a copy of this Notice of Appeal has been served upon the Secretary of _____ Lodge No. _____ and upon the Respondent on _____, _____.

Appellant

EXHIBIT "L"

[Lodge letterhead]

[Date]

[Name and address of Member]

**NOTICE OF PROPOSED EXPULSION FROM MEMBERSHIP
IN THE BENEVOLENT and PROTECTIVE ORDER OF ELKS
PURSUANT TO GLS 9.090**

Dear (Name of Member),

It has been brought to the attention of the Lodge that you have pled guilty to or been convicted of misdemeanor involving Moral Turpitude or Felony (*Please find attached a complete copy of the criminal records and information in question.*) Grand Lodge Statute Section 9.090 specifically provides that any member who has been convicted of or pled guilty to a crime as defined by the statute, or one who has failed to disclose such conviction or plea of guilty on his application for membership, must be expelled from the Order.

THEREFORE, YOU ARE HEREBY NOTIFIED THAT YOU WILL BE EXPELLED FROM THE BENEVOLENT AND PROTECTIVE ORDER OF ELKS UNLESS YOU ARE ABLE TO DISPUTE THE CRIMINAL RECORDS IN QUESTION, BY SHOWING THAT THEY ARE UNTRUE, INACCURATE, CURRENTLY UNDER APPEAL, HAVE BEEN REVERSED ON APPEAL OR ARE OTHERWISE ERRONEOUS. YOU MUST FILE YOUR DISPUTE IN WRITING WITH THE LODGE SECRETARY WITHIN 30 DAYS OF THE DATE OF THIS NOTICE. IF YOU FAIL TO DO SO, AN ORDER WILL BE ENTERED PERMANENTLY EXPELLING YOU FROM MEMBERSHIP IN THE ORDER.

Once the Order of Expulsion is entered, you will no longer be a member, you will lose all membership rights and you will not be allowed to be present in or visit any Lodge of the Order for any purpose.

The only way you will be able to regain your membership will be to request a Pardon by following the procedures set forth in Chapter 10 of the Grand Lodge Statutes.

If you should have any questions, do not hesitate to contact me.

Fraternally yours,

(Secretary name)

Lodge Secretary

[Please note, the letter must be sent to the member by certified mail, return receipt requested, and should also be sent by regular 1st class mail at the same time.]

EXHIBIT "M"

NOTICE OF APPEAL FROM EXECUTIVE ORDER

**[IMPORTANT: Complete and File Information Sheet
(Exhibit "O") with your appeal]**

Name

Appellant,

vs.

APPEAL FROM
EXECUTIVE ORDER
NO. _____

Grand Exalted Ruler

Respondent.

NOTICE IS GIVEN THAT _____, Appellant, appeals to the Grand Forum of the Benevolent and Protective Order of Elks from Executive Order No. _____.

This Appeal is being filed with the Grand Secretary within 10 days from the receipt of the Executive Order and attached hereto is check or money order in the amount of \$1,000.00 as a deposit toward the costs of transcription.

Appellant

(Any additional signatures necessary should be shown on an attached page.)

I CERTIFY that a copy of this Notice of Appeal has been served upon the Grand Exalted Ruler and upon the Secretary of _____ Lodge No. _____ on _____, _____.

Appellant

EXHIBIT "N"

**FORM OF COMPLAINT IN
ORIGINAL ACTION AGAINST LODGE**

**[IMPORTANT: Complete and File Information Sheet
(Exhibit "O") with your appeal]**

GRAND FORUM,
BENEVOLENT AND PROTECTIVE ORDER OF ELKS

Name
Complainant,

vs.

COMPLAINT IN
ORIGINAL ACTION

Name
Respondent.

_____, Complainant (a Lodge of the Order) (a Member
in good standing in _____ Lodge No. _____, B.P.O. Elks), under
the Obligation of the Order, hereby accuses _____ Lodge No. _____,
B.P.O. Elks, with the offense(s) of

*[here set forth the text and section of the Statute allegedly
violated, as for example: "Violation of Sec. 9.130(i), Laws of
the Order"]*

in that the Respondent did on or about

*[here specify the date, place and particulars constituting
the offense charged]*

DATED: _____

(Signed) _____
Complainant

_____, under the Obligation of the Order, says
that he/she is the above named Complainant, that he/she has read the foregoing
Complaint, knows the contents thereof, and believes the same to be true. I
understand that I will be responsible to obtain and pay the cost of a court
reporter to record the testimony at the trial.

(Signed) _____
Complainant

EXHIBIT "O"

**INFORMATION SHEET FOR
APPEAL TO GRAND FORUM**

APPELLANT

Name: _____

Address: _____

Telephone No. () _____

E-mail: _____

Lodge Name & No.

RESPONDENT

Name: _____

Address: _____

Telephone No. () _____

E-mail: _____

Lodge Name & No.

TYPE OF APPEAL (*mark applicable type*):

- Local Forum verdict
- Dismissal of Complaint in Local Forum
- Suspension from Club privileges
- Lodge action
- Executive Order
- Original Complaint

INSTRUCTIONS TO APPELLANT: You **MUST** complete and send this sheet with your appeal to the Clerk of the Grand Forum. Also send a copy to other parties to whom the notice is sent.

**GUIDE FOR
BOARDS OF DIRECTORS
— SECTION 16.020 —
OF GRAND LODGE STATUTES**



Benevolent and Protective
ORDER OF ELKS
of the USA

Issued by the Committee on Judiciary



Introduction

This guide has been prepared to assist Members of Local Lodges who serve on existing Local Lodge Boards of Directors to understand their duties and responsibilities under Grand Lodge Statute (GLS) 16.020 and related authorities of the Order.

It should be noted that any corporation must also be in compliance with applicable state law requirements which are beyond the purview of the Committee on Judiciary and should be addressed with an attorney or other person knowledgeable in that area of the law.



Background.

The Members of Lodges in our Order have traditionally had the right to determine which type of entity their Lodge will exist as, most typically an unincorporated association or a corporation. For Lodges choosing to incorporate, they are subject to the provisions of GLS 16.020. For Lodges choosing to be unincorporated, they will sometimes establish a separate but related corporation to take title to real property or for some other purpose, which would be subject to the provisions of GLS 16.030.

The purpose of a corporation can be found in its articles of incorporation, charter, or corporate By-Laws, and is also commonly reflected in its name: Lodge corporations have names like “(name) Elks Lodge No. _____”, while separate corporations often have names like “(name) Elks Hall Association, Inc.” Under traditional legal principles, corporations typically have Members who elect Directors to serve as its leaders, with additional provisions for the selection of corporate Officers, either by the Directors or in some other manner as provided in the corporate By-Laws or in our case the laws of the Order. For many years the laws of the Order made it optional whether there was a requirement that there be a Board of Directors for an incorporated Lodge, but, in recognition of state law requirements that require every corporation to have some form of constituted leadership, at the 2010 Grand Lodge convention a resolution was adopted by the delegates that changed the word “may” to “shall” in GLS 16.020, which made it mandatory that an incorporated Lodge must have a Board of Directors, and that such group would succeed to the duties of the elected Lodge Trustees under GLS 12.070.

This change generated considerable discussion and uncertainty which this guide has been created to try to address. It is not intended to address separate corporations that are subject to the provisions of GLS 16.030.



What Can or Should the Board Do?

The provisions now being mandatory for any incorporated Lodge, the Members of the Board are obligated to do the following:

- (1) The Area Member of the Committee on Judiciary must approve any proposed Articles, By-Laws, Amendments and other corporate documents before they are adopted or submitted to any state authority. The purpose of the approval is not that the Area Member is acting as an attorney for the Lodge but rather to verify there has been compliance with the laws of the Order. The Lodge has responsibility for seeking an attorney or other adviser to handle the formalities and other legal requirements of establishing, modifying or dissolving any corporation. In addition to any state law requirements, the procedure to establish a Lodge corporation is set forth in GLS 16.020 and should be reviewed if such an entity is being considered. Any amendments must comply with applicable provisions of the corporate By-Laws.
- (2) All Members in good standing of the Lodge shall be Members of the corporation, and retain ultimate control over the actions of the corporation.
- (3) At each annual Lodge election in February the Members of the Lodge elect Lodge officers for the succeeding year. By virtue of that election, the four new chair officers and Lodge Trustees shall comprise the Board of Directors of the corporation.
- (4) Following installation, the Members of each new Board shall elect a Chairman and Secretary from among themselves to preside and to keep a record of actions taken at their meetings.
- (5) The officers of the corporation shall be the officers of the Lodge, holding the same titles or positions they have in the Lodge, meaning that the Exalted Ruler, Lodge Secretary, Lodge Treasurer and Trustees serve as the President, Secretary, Treasurer and Trustees/Directors of the corporation.
- (6) In general terms, the Board makes decisions concerning the activities of the corporation at regular or specially called meetings for which required notice is given to all Members and at which a quorum is present, with the corporate Officers

Grand Lodge Committee On Judiciary

being tasked with carrying out those decisions provided they are within the scope of responsibility of the Board. The Chair as a Member of the Board may make motions, debate and vote in all matters, not only those in which his or her vote would be determinative of an issue. The Chair may not refuse to consider items of business being proposed by a Member of the Board.

- (7) The Chairman of the Board must attend District Deputy clinics, but if the Chairman is either the Exalted Ruler or Esteemed Leading Knight (who must attend in any event) then another Member of the Board must be designated to attend as well.
- (8) The Board controls the property, funds and investments of the Lodge, but subject to the approval of the Members. The Board may not spend money without approval of the Members, and even if certain amounts were approved as part of the Lodge budget any actual expenditure of such amounts must still be brought to the Members for approval. The Board acts at the direction of the Membership, and is not independent of it. The Board must be aware of the permitting requirement under GLS 16.050 in which permission must be obtained from the Board of Grand Trustees for actions of qualifying amounts or duration.
- (9) The Board must present a detailed and segregated budget to the Members for approval not later than the last meeting in April. This is again not an authorization to spend money, but a framework for spending for the coming year to maintain discipline and a sound financial condition. Budgets should not be taken lightly, as they are a road map for the financial success of a Lodge for the coming year.
- (10) The Board as such has no authority over the operation of the club facility, which is under the control of the House Committee (or Managing Body) as provided under GLS 16.040. While the Members of the Lodge have ultimate control over many aspects of the club operation, the House Committee has exclusive authority over the pricing of goods and services and club employment relationships, this in large part because the House Committee has a separate budget to be approved by the Members that it is responsible for.



- (11) Depending in some cases on how budgets are structured, the Board approves and oversees facility rental arrangements, with the proceeds thereof to typically be part of the Lodge operating budget, all the while being mindful of the requirements of GLS 14.130 that limit the use of the club facilities so as to maintain a private club environment.
- (12) Conduct an annual inventory of Lodge property to assess areas needing improvement as well as to maintain schedules for insurance coverage. Consider annually videotaping the facility to document the existence of Lodge property should there be a subsequent catastrophic loss.
- (13) The Board must hold monthly meetings, with notice to the Members of the Lodge so they can attend if desired. Minutes must be taken and once approved be made available for review by Members of the Lodge. Minutes of meetings are generally not effective until approved by the Board; until that happens they are of no import and remain under the jurisdiction and control of the Board.
- (14) In the event the Lodge By-Laws provide that the Lodge Trustees are to be the managing body of the club, then the elected Lodge Trustees and not the Board of Directors shall serve in that position.
- (15) It is important to note that the Board is a separate entity from any other office or Committee its Members may serve on; decisions by one body should not be attributed to any other body, meetings of the several entities should be held separately, and separate minutes of each group's activities should be kept.

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Grand Lodge Committee On Judiciary

- (16) Establish and maintain an Accident Prevention Program, with one Member of the Board being designated as its Manager.
- (17) The Board has little control over hiring and firing; the paid officers are provided for through the budget and Lodge By-Laws, and within budgeted amounts the office staff are under the control of the Lodge Secretary and the club employees are under the control of the House Committee. In cases of other personnel, such as gardeners or Lodge employees other than in the office, the Board would have jurisdiction but again subject to the ultimate control of the Membership.
- (18) The Board must cooperate with and not impede or obstruct the activities of the Auditing and Accounting committee.
- (19) The Board has a responsibility to monitor revenues and expenditures for budgetary compliance. Although they have no statutory authority to sign checks in place of the Lodge Treasurer (or alternate signer if authorized in the By-Laws and as provided in GLS 12.060), practices may be implemented for signers in addition to a required signer as part of a Lodge check and balance system.
- (20) While hopefully conscientious of their responsibility to monitor Lodge activities, the Board must be mindful that other officers have their own statutory duties and responsibilities that may not be violated or abridged. The Lodge Secretary has a duty to maintain security in the maintenance of Lodge records and while review of records should be made reasonably available the demand for production or surrender of documents should not be made.



How Does GLS 16.020 Relate to GLS 12.070?

For purposes of clarity, the elected Trustees of a Lodge are commonly referred to as its *Board of Trustees*, while the Members of the Board of a Lodge incorporated under GLS 16.020 are referred to as its *Board of Directors*. If a Lodge is incorporated, then under the provisions of both GLS 16.020 and 12.070 it is stated that the Board of Directors takes over all of the duties that the Board of Trustees would have in an unincorporated Lodge. Further, the Members of a Lodge can assign to the Board of Directors other duties in addition to those found in GLS 12.070 provided they do not violate any law of the Order, such try to take a statutory duty away from one officer and given to another.

Implementing a Board of Directors.

No special action is needed to amend a Lodge's By-Laws to implement a Board of Directors in an incorporated Lodge. The standard Lodge By-Laws includes a provision in Article V Section 7 that assigns the duties under GLS 12.070 to its Board of Trustees, or if the Lodge is incorporated then automatically to its Board of Directors. Nothing more is needed than to announce a chance is being made, call an organizing meeting of the Members of the corporate Board, and move on from there.

The list contained in this guide is not necessarily inclusive, but reflects an interpretation of statutory authority as expanded by questions frequently received by Members of the Committee on Judiciary. Members of the Board should always bear in mind that they are agents of the Members of the Lodge and must always act in their best interest and at their direction. In all matters, the Members of the Lodge have final authority over what the Board does.

If you have questions or have suggestions for areas of improvement please contact your Area Member of the Committee.

Fraternally,

THE COMMITTEE ON JUDICIARY

SELECTED REFERENCES

(Current as of July, 2014)

Section 12.070. The Board of Trustees, or the Board of Directors if the Lodge is incorporated under Section 16.020, (herein called "the Board"), after each annual installation shall meet and organize by electing a Chairman and Secretary who shall be Members of the Board. The Chairman of the Board shall attend all District Deputy Clinics unless excused for good cause by the District Deputy, provided, however, in the event the Exalted Ruler or Esteemed Leading Knight is the Chairman, then one other Member of the Board shall be designated by the Board and required to attend all District Deputy Clinics. The Board, subject to control by the Lodge, shall have the following powers: *(a)* control of the funds, investments and real and personal property of the Lodge, not otherwise provided by law, and shall receive and collect the income and rents therefrom, *(b)* execute all leases, contracts or other papers when ordered by the Lodge. The Board shall not have authority for listing of Lodge real estate for sale and/or entering into any sales contract prior to approval of such action by a majority vote of the Lodge. The Board shall hold at least one regular meeting each month and needed special meetings called by the Chairman. They shall keep minutes of each meeting of the Board. If the Lodge is not incorporated, the Exalted Ruler shall be given the same notice of all meetings of the Board, and in the same manner, as is given to the other Members of the Board. It shall also keep a record of investments made under direction of the Lodge, which shall show original cost, the due dates and amount of interest or profit on investments, the date and amounts of deposits made by it and date and amounts of drafts drawn from the bank by order of the Lodge.

It shall purchase all supplies ordered by the Lodge, and all papers, books and stationery needed by the Officers for the performance of their duties. It shall hold the bonds of the Officers, and shall present a monthly written report of its transactions at the first regular meetings each month. It shall establish an Accident Prevention Program, with one Member designated as Accident Prevention

Manager, to continually review and implement a policy, in concert with Grand Lodge and State Association programs, to protect the Lodge from claims for accidents and injuries. It shall perform other duties as may be required by the Laws of the Order and By-Laws of the Lodge.

The Board shall present a segregated budget not later than the final regular meeting of the Lodge in April, making appropriations for each of the several objects for which the Lodge must or may provide out of monies known to be in possession of the Lodge or estimated to come into it during the ensuing Lodge year. A budget either in its original or modified form must be adopted by the Lodge at the meeting or at the next regular meeting. After the budget has been adopted, all expenditures during the Lodge year must be kept within the limits of the appropriations made. When a proposal is made for an expenditure in excess of the adopted budget, the proposal shall be promptly referred to the Board for consideration and written recommendation at the next regular Lodge meeting. The proposal may be adopted by not less than a two-thirds vote of the Members present at a regular meeting. The budget may include an item for contingent purposes to cover emergencies and expenditures therefrom may be approved by a vote of two-thirds of the Members present at a regular meeting. Unexpended appropriations at the end of the Lodge year shall be available for appropriation in the budget for the next Lodge year. In Lodges where a Budget Committee is required by the By-Laws the budget shall be prepared by that Committee. The Committee shall report to the Lodge by the final regular meeting in April.

Section 16.020. A Lodge may incorporate under the laws of the state or territory wherein it is located. The Articles of Incorporation must be approved by the Committee on Judiciary prior to filing with the state authority.

A proposal to incorporate a Lodge shall be made in writing and filed with the Lodge Secretary. At the first Lodge meeting after the receipt of the proposal the Exalted Ruler shall fix a date for a vote on

the proposal which is not less than two (2) nor more than eight (8) weeks thereafter. The Secretary shall mail a notice of the proposal to each Member at his last known address. The notice shall be mailed at least ten (10) days prior to the date on which the vote is to be taken. A majority vote of those attending will bind the Lodge unless the Statutes of that State require a different number in which event the State law shall govern.

Whenever a Lodge shall incorporate, the voluntary association shall merge into the corporation.

When a Lodge votes to incorporate it shall pass a resolution authorizing and directing the proper Officers of the Lodge to convey all of its property, real and personal, held in trust or otherwise, to the new corporation and the passage of the resolution shall be a condition precedent to its incorporation.

It is the purpose and intent hereof to enable any Lodge by incorporating to own and operate its Home, embracing both Lodge and Club, without altering or impairing in any manner the character of the Lodge as set forth from time to time by the Grand Lodge.

The Officers and Committees of all Lodges, whether incorporated or not, shall be designated by the same names or titles and shall possess the same functions and powers, as now obtain, or as may from time to time be provided by the Grand Lodge. The Chief or Presiding Officer of such corporation shall be the Exalted Ruler of the Lodge and shall be designated as such in the corporation and all other Officers of the corporation shall be the respective Officers of the Lodge and shall be known by their respective Lodge titles. All Lodge Members in good standing shall be Members of the corporation. An incorporated Lodge shall make provision for a Board of Directors which shall be designated in accordance with the requirements of the corporation laws of the State or Territory in which such Lodge is situated and which shall be composed of the four Chair Officers of the Lodge and the Trustees, and which shall be vested with the powers and duties conferred upon the Board of Trustees by the Laws of the Order, including, but not limited to, Section 12.070.

The incorporation of a Lodge shall not alter or change the fact that the Lodge shall be governed and controlled by the Members thereof, whether shareholders or not, in contradistinction to the usual method of incorporation ownership and control by its stockholders or shareholders.

The names of the elective Officers of the Lodge may be used and employed as petitioners in procuring such Charter.

The kinds and amount of stock, or other securities to be issued, shall depend upon the requirements and exigencies of each individual corporation, and the local laws and conditions governing the same, all subject to the Laws of the Order and the approval of the Chairman of the Committee on Judiciary.

The name and style of said corporation shall include the full name of the particular Lodge so incorporating, to-wit: "_____ Lodge No. _____, Benevolent and Protective Order of Elks of the United States of America."

This Section is not obligatory upon Lodges where the incorporation laws of the state irreconcilably conflict herewith, nor shall this Section be construed to require the reincorporation of Lodges incorporated prior to 1914.

Section 16.030. The Lodge may, if it chooses, form a separate corporation for any club, home real property or other facility owned by the Lodge. Membership in the corporation shall at all times consist of the elective officers (including Trustees) of the Lodge, together with four (4) additional persons who are Members of the Lodge. These four additional Members shall be elected by the remaining Corporate Members and shall be Members for one year periods.

All corporate powers shall be exercised by a Board of Directors, to be seven (7) in number, who shall be corporate Members, and who shall serve for one year, and until their successors are elected and qualify.

The Corporate Officers shall be elected from the Board of Directors and shall consist of a President, Vice President, Secretary

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and Treasurer, to be elected annually by the Board of Directors. The President and Secretary shall not hold more than one office in the corporation.

The books and records of such corporation shall at all times be subject to inspection by the Grand Lodge of the Order.

It shall be the duty of the corporation to present to the Lodge for approval, not later than the final regular Lodge meeting in April, a separate and comprehensive budget for the proposed operation of the corporation. The corporation shall also submit a monthly written report to the Lodge showing the financial condition of the corporation and the condition of the budget relating to the same.

Upon dissolution of a separate corporation, all property owned, held or controlled by it shall be transferred and distributed by its Board of Directors to the Lodge or other non-profit organization, fund, corporation or trust forming a part of or controlled by the Benevolent and Protective Order of Elks of the United States of America.

No Articles of Incorporation or By-Laws or any amendment thereto of a separate corporation shall take effect unless submitted to and approved by the Committee on Judiciary.

A separate corporation shall be subject to and comply with the provisions of Section 16.050 in all matters applicable thereto and the Laws of the Order.





Benevolent and Protective
ORDER OF ELKS
of the United States of America



Governance of BOD of LL • March 2015

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VOTING REQUIREMENTS GUIDE

Unless specifically provided for in the Constitution and Laws of the Order, the current version of Robert’s Rules of Order, Newly Revised, shall prevail.

A. SIMPLE MAJORITY — BY VOTING SIGN OF AN ELK

(One more than half of those voting required)

1. Selection of an Auditor [Section 13.040]
2. Bills against the Lodge [Section 12.060]
3. Approval of Lodge Budget [Section 12.070]
4. Listing of Lodge Real Estate for sale and/or entering into any sales contract, after compliance with GLS 16.050 [Section 12.070]
5. Approval of Club Management Budget [Section 16.040]
6. Application for reinstatement made by Member within 60 days after being dropped for nonpayment of dues [Section 14.180]
7. General motions made in conduct of business at a regular session of the Lodge
8. Order of Business with the exception of items (h) through (q) and (d) which may be transposed [Section 15.020]
9. Amendments to Grand Lodge Constitution [Article IX, Sections 1 & 2, and Section 17.030–Ratification process]
 - a. Vote at its first regular meeting in September
 - b. Certify to Grand Lodge Secretary on or before the first Monday in October
10. Amendments to a proposed budget [Section 12.070, Opinion 23]
11. Lodge may vacate the position of any Officer [Section 12.140]:
 - a. Who is absent from meetings of the Lodge, or duty, during two consecutive months without good cause, or
 - b. Who was replaced by an acting Officer under the provisions of Section 12.020, and determined by the Lodge to be unable to complete his term of office.

B. MAJORITY OF VOTES OR BALLOTS CAST

1. Election of Officers [Section 3.090]
 - a. By written or printed ballot or voting machine
 - b. Where more than two candidates and no majority, nominee receiving fewest ballots shall be eliminated from ballot until a nominee receives the majority of votes cast
 - c. No further nominations accepted on night of election if a candidate has been previously nominated
2. Election to fill a vacancy [Section 12.150]
 - a. Voting procedure as governed by Section 3.090
 - b. By written or printed ballot or voting machine
 - c. Nominations allowed on night election ordered and also on night election held
 - d. A vacancy caused by election of another elective Officer may be filled at the same meeting
3. Election of only one nominee [Section 3.090]

The Lodge may direct any Officer to cast the vote of the Lodge for the nominee

C. MAJORITY OF MEMBERS PRESENT — BY VOTING SIGN OF AN ELK

(Members not voting are counted as “NO” vote)

1. Amendments or revisions to By-Laws, Rules of Order and House Rules [Section 17.060]
 - a. Proposed in writing and read at a regular meeting of the Lodge
 - b. 10 days’ notice to Members required
2. Incorporation of a Lodge or Club [Section 16.020]
 - a. Proposed in writing and filed with Lodge Secretary
 - b. 10 days’ notice to Members required
 - c. Majority vote of those present unless Statutes of the State require a different number
3. Formation of a separate corporation [Section 16.030, Opinion 03] Same procedure as Section 16.020

D. TWO-THIRDS MAJORITY — BY VOTING SIGN OF AN ELK

1. To overrule the decision of the Exalted Ruler [Section 15.030]
2. Removal of an Officer for immoral conduct, abuse in office, or actions which may dishonor the Lodge [Section 12.141]
 - a. Specific procedures, Step 1 initial hearing, Step 2 formal hearing
3. Application for membership by Reinstatement [Section 14.180]
 - a. After 60 days from being stricken from the rolls

E. TWO-THIRDS MAJORITY — BALLOTS CAST

1. Application for membership by initiation [Section 14.030]
 - a. Notice to Members required [Section 14.010]
 - b. By ballot box; white balls=elect and black cubes=reject
2. Application for membership by Transfer Dimit [Section 14.110]
 - a. Procedure same as membership by initiation
3. Application for membership on an Absolute Dimit [Section 14.120]
 - a. Procedure same as membership by initiation
4. Application for membership by Certificate of Release [Section 14.180]
 - a. Procedure same as membership by initiation
5. Application for membership by Certificate of Status [Section 14.230]
 - a. Member in good standing of a suspended or dissolved Lodge
 - b. Same procedure as application by Transfer Dimit
 - c. Certificate of Status from the Grand Secretary
6. Application for membership by Certificate of Status [Section 14.250]
 - a. Member of a suspended or dissolved Lodge not in good standing by reason of nonpayment of dues or stricken from rolls
 - b. Same procedure as application by Certificate of Release
 - c. Certificate of Status from the Grand Secretary — \$10.00 fee
7. Reconsideration of a favorable membership ballot [Section 14.050]
 - a. Must be between initial ballot and initiation
 - b. Special procedures and favorable vote to confirm election

APPENDIX I *continued*

F. TWO-THIRDS MAJORITY OF MEMBERS PRESENT — BY VOTING SIGN OF AN ELK

(Members not voting counted as “NO” vote)

1. Proposal of line item expenditures in excess of budget [Section 12.070]
 - a. Referred to Trustees for written recommendation
2. Proposal to increase budgeted fund by transferring funds from another fund or authorize borrowing against anticipated income [Section 12.070]
3. Expenditures from a contingency fund [Section 12.070]
4. Expenditures of unbudgeted income [Section 12.070]
5. Permission to build, buy, sell, remodel or lease property [Section 16.050]
 - a. 10 days’ notice to Members required
 - b. Approved by the Board of Grand Trustees
6. To rescind an approved action [Section 15.020, Opinion 07]
7. Merger and consolidation of contiguous Lodges — Surrender of Charter [Section 11.060]
8. Dropping a Member owing any indebtedness to the Club or Lodge [Section 14.170]
9. Proposal or Resolution by a Lodge to amend or enact law or to amend the Constitution [Section 17.010]

G. TWO-THIRDS MAJORITY OF MEMBERS PRESENT — BY SECRET BALLOT

1. Life Membership [Section 14.260]
 - a. 10 days’ notice to Members required
2. Transfer of Life Membership [Section 14.260]
 - a. Requested at time of transfer of membership
3. Honorary Life Membership [Section 14.270]
 - a. 10 days’ notice to Members required
4. Appeal to Lodge by a Member suspended from Club privileges [Section 16.040]
 - a. 10 days’ notice to Members required
 - b. To modify or reverse action of the supervising body requires 2/3 affirmative secret ballot

H. THREE-FOURTHS MAJORITY OF MEMBERS VOTING — BY VOTING SIGN OF AN ELK

1. Honest belief candidate was a naturalized citizen when in fact naturalization had not been completed [Section 14.020]

I. THREE-FOURTHS MAJORITY OF MEMBERS PRESENT — BY VOTING SIGN OF AN ELK

(Those not voting counted as “NO” vote)

1. Voluntary surrender of Charter or Dispensation [Section 11.100]
2. 10 days’ notice to Members required

**HOUSE COMMITTEE SUSPENSION—HEARING PROCEDURE
(Excerpt from Grand Forum, Case No. 978, 2000)**

1. A Hearing is held after giving the Member ten days written notice served either personally or by regular first class mail. Said notice should specifically state the charges. (*See Exhibit I*)
2. The Hearing is before the managing or supervisory body.
3. At the Hearing before the managing or supervisory body, the Member must be given his or her due process of law which will include but not be limited to the managing or supervising body of the Lodge strictly following the provisions of Section 16.041 if there is an intention to suspend a Member from privileges of the Club or home.
4. The managing or supervisory body would then decide whether or not suspension is appropriate. A notice of suspension in writing (*Exhibit J*) must be served personally or by registered first class mail to the Member. The vote of the managing or supervisory body shall be in Open Session.
5. The Member may appeal the suspension to the Lodge if done so within ten days of receipt of the notice of suspension by filing a notice of appeal (*Exhibit K*) either by personal service or first class mail to the Lodge Secretary.
6. If the Member appeals a suspension to the Lodge, the suspension is stayed until the appeal to the Lodge has been completed.
7. After a notice of appeal has been filed with the Secretary, the Secretary reports the appeal to the Exalted Ruler and to the Lodge at the next regular meeting.
8. The Exalted Ruler at that meeting shall then order a hearing of appeal, the hearing to be held at a regular meeting of the Lodge within 45 days.
9. Notice in writing must be sent to all Lodge Members not less than ten days prior to the Hearing on appeal.
10. At the Hearing, the managing or supervisory body of the Club must present the evidence and the appealing Member then has an opportunity to defend or refute the charges.
11. After the Hearing portion is completed, a motion to modify or reverse the action of the supervisory or managing body must pass by an affirmative secret ballot of two-thirds vote of the Members present. The Secretary should be prepared to distribute paper ballots in the event a motion is made.
12. If no motion is made, the decision of the supervisory or managing body is affirmed.

LOCAL FORUM PROCESS GUIDELINE (GLS – CHAPTER 8)

<i>Occurrence</i>	<i>Duties</i>	<i>Time Frame</i>	<i>Notes</i>	<i>GLS Section</i>
Offense	Start action	within 4 years of occurrence		GLS 9.190
Notice of Intent	ACCUSER – files Notice with Secretary SECRETARY – serves the Accused – notifies the Mediator MEDIATOR – contacts Accused & Accuser – arranges Mediation – files Mediation Statement	→ promptly → within 2 business days (if not done, ER appoints another mediator) → within 5 days → at conclusion of Mediation	2nd Notice of Intent cannot be filed while 1st Notice is pending between Accused and Accuser If no Mediation agreement is reached, proceed with Complaint within 10 days	GLS 8.015 see GLS Ex. A see GLS Ex. B
Complaint	ACCUSER – files Complaint with Secretary SECRETARY – serves the Accused – notifies Exalted Ruler – notifies Presiding Justice	→ within 10 days after Mediation Statement → promptly → promptly → promptly	file 3 copies of Complaint	GLS 8.020 see GLS Ex. C
Local Forum Appointed	Local Forum appointed SECRETARY – send list of Local Forum members to Accused & Accuser ACCUSED and ACCUSER – may strike 6 names each EXALTED RULER – appoints 4 unchallenged names on list	→ at next regular meeting → within 3 days → within 7 days → at next regular meeting	see 8.040 if insufficient number remain	GLS 8.040
Preliminary Hearing	PRESIDING JUSTICE – sets time for Preliminary Hearing – holds Preliminary Hearing – may dismiss, or accept plea	→ promptly → within 5-10 days → at Hearing	Local Forum not present at Preliminary Hearing	GLS 8.050 GLS 8.060 GLS 8.070

	<p>SECRETARY – notifies Accused and Accuser of Preliminary Hearing → promptly</p> <p>ACCUSED – may file a Motion to be More Specific → by time of Preliminary Hearing</p> <p>– may file a Motion to Dismiss → any time up to return of verdict by Local Forum</p> <p>– enters Answer, pleading guilty or not guilty → at Hearing</p> <p>ACCUSER – if Complaint is dismissed, may appeal → within 30 days</p> <p>– if Motion to be More Specific granted, must comply → within 7 days</p>		see GLS Exs. D & E
Answer	<p>PRESIDING JUSTICE – if Accused pleads not guilty, set time for Trial, to be held → within 30 days</p> <p>– notice for Trial → no less than 10 days prior to Trial</p> <p>– if Accused pleads guilty, set Sentencing Hearing, to be held → within 15 days</p>		GLS 8.080
Trial	LOYAL KNIGHT – conducts prosecution		open to all Members in good standing GLS 8.090–8.140
Decision	<p>PRESIDING JUSTICE – signs, and gives to Secretary</p> <p>SECRETARY – enters Decision in minutes → at next regular meeting</p> <p>– if acquitted, sends records by certified mail to GER → promptly</p> <p>– by Accused → within 30 days</p> <p>– by Accuser after Order to Dismiss has been granted by Presiding Justice → within 30 days</p>	Presiding Justice is a Member of the Local Forum	GLS 8.140
Appeal			see GLS 8.220–8.250 see GLS Ex. G

TAX MATTERS

1. Lodges of our Order are not exempt from the Federal Revenue acts requiring the payment of taxes in connection with the use of pool and billiard tables, coin machines, bowling alleys, etc. The fact that no charge is made for the use thereof is immaterial.

2. The question of whether or not a Lodge is required to pay taxes upon real estate owned by it is governed by state and local laws.

3. Laws relating to Social Security and withholding taxes apply to Elks Lodges.

4. Lodge dues and initiation fees, regardless of amount, are not currently taxed by the Federal Government.

5. Lodges are currently exempt from Federal income tax, under the provisions of Section 501(c)(8) of the 1954 Code.

6. Contributions to Lodges may qualify for income tax deduction if they satisfy the requirements of Section 170(c)(4) of the 1954 Code.

7. The Elks National Foundation is an exempt organization under the Internal Revenue Code.

All gifts to the Foundation are deductible for Federal income, estate and gift tax purposes, in the manner and to the extent provided by law.

8. Rewards given by a Lodge to Members securing applications for membership and reinstatement may be subject to payment of Federal and State income taxes by the Members receiving the rewards, depending upon the form and value of the rewards and other considerations applied by the I.R.S. A Member should consult his or her own tax advisor to determine the taxability of any rewards received.

NOTE: The foregoing opinions are intended only as a guide and not as a brief of the law supporting any particular contention relating to State or Federal taxation. The constantly changing tax laws and the many regulations, rulings and interpretations thereof, require that a local lawyer's opinion and advice be secured on each question of tax law which may present itself.

INCORPORATION OF THE ORDER

CERTIFICATE OF CONTINUANCE OF EXISTENCE OF BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA

Whereas, on the 19th day of June, A.D., one thousand eight hundred and ninety-five, the Benevolent and Protective Order of Elks of the United States of America, an association of citizens of the United States of America, was duly and lawfully incorporated under and in pursuance of the Laws of the District of Columbia for benevolent, charitable, educational and literary purposes, which incorporation was evidenced and accomplished by filing with the Officers designated by law duly and lawfully executed articles of incorporation in the words and figures following, to wit:

“We, the undersigned, Edwin B. Hay, Joseph Y. Potts, John C. Maxwell and Thomas J. King, all of the District of Columbia; Willard C. Vanderlip of Boston, MA; Peter J. Campbell of Baltimore, MD; and Joseph W. Laube of Richmond, VA, being persons of full age, all of whom are citizens of the United States, and a majority of whom are citizens of the District of Columbia, pursuant to and in conformity with Sections 545, 546, 547, 549, 550, 551 and 552 of the Revised Statutes of the United States, relating to the District of Columbia, do hereby associate themselves together for benevolent, charitable, educational and literary purposes and for mutual improvement, and we do hereby certify:

“First. That the name of this organization shall be the Benevolent and Protective Order of Elks of the United States of America.

“Second. The term for which it is organized is twenty (20) years.

“Third. Its objects shall be and are benevolent, social and altruistic; to promote and encourage manly friendship and kindly intercourse, and to aid, protect and assist its members and their families.

“Fourth. The number of its Trustees shall be three (3), viz: Willard C. Vanderlip, Peter J. Campbell and Joseph W. Laube, and they shall hold office during the first year of its existence or until their successors are elected, and the said organization, by the name above, may have and use a common seal and may meet annually or oftener at such time and places and in such manner as may be specified by its By-Laws.

“In testimony whereof, we have hereunto set our hands this nineteenth day of June, in the year of our Lord, one thousand eight hundred and ninety-five.

“EDWIN B. HAY

“JOSEPH Y. POTTS

“JOHN C. MAXWELL

“THOMAS J. KING

“WILLARD C. VANDERLIP

“PETER J. CAMPBELL

“JOSEPH W. LAUBE.”

(Duly verified and acknowledged.)

“Whereas, By proper and lawful proceedings thereafter taken and had in accordance with the provisions of the Constitution and By-Laws of said corporation, duly adopted and in force, the number of Trustees of said corporation was changed and increased from three to five; and,

“Whereas, Said corporate charter so obtained from the District of Columbia will expire by limitation of time on the 10th day of June, 1916, and it is the desire of said corporation and its members to continue perpetually the corporate existence and powers of said Benevolent and Protective Order of Elks of the United States of America, under and in pursuance of the said charter granted to said corporation by said District of Columbia and the articles of incorporation filed as hereinbefore set forth: and,

“Whereas, The undersigned are the duly elected, qualified and acting Grand Exalted Ruler of said Benevolent and Protective Order of Elks of the United States of America, and by virtue of such office is the President of said corporation; the Grand Secretary of said Benevolent and Protective Order of Elks of the United States of America, and by virtue of such office is the Secretary of said corporation: and the five Grand Trustees of said Benevolent and Protective Order of Elks of the United States of America, and by virtue of such office are the five acting Trustees of said corporation, and,

APPENDIX V *continued*

“Whereas, The said Officers are the Officers of said Benevolent and Protective Order of Elks of the United States of America, and of said corporation authorized and empowered by resolution unanimously adopted by the members of said corporation in session assembled, to proceed in accordance with the forms of law to secure and provide for the extension of said corporate existence and powers in perpetuity;

“Now, Therefore, we, the undersigned, Raymond Benjamin, Grand Exalted Ruler and President of said corporation; Fred C. Robinson, Grand Secretary and Secretary of said corporation; and James R. Nicholson, Cary L. Applegate, John J. Faulkner, Samuel V. Perrott and Calvin L. Kingsley, Grand Trustees and Trustees of said corporation, being the duly elected, qualified and acting Officers and Trustees of the Benevolent and Protective Order of Elks of the United States of America, a corporation organized and existing under the laws of the District of Columbia, and desiring to continue perpetually the existing charter and powers of said corporation, do, under and in pursuance of the Authority conferred upon us by law and the resolution of said corporation, and in accordance with Sections 599 and 602 of an Act of Congress approved March 3, 1901, entitled “An Act to establish a code of law for the District of Columbia,” and All Amendments thereto, hereby certify:

“1. That at the time of signing this certificate of extension we are the duly elected and acting Officers and Trustees, as hereinbefore set forth, of the Benevolent and Protective Order of Elks of the United States of America, the corporation hereinbefore referred to, and the Officers and Trustees duly authorized and empowered by said corporation, by unanimous resolution of the members thereof, to take all necessary proceedings and execute all necessary documents to secure a perpetual extension of the corporate charter and powers of said corporation;

“2. That the name of the corporation of which we are the said Officers and Trustees, and for which this extension is executed is “Benevolent and Protective Order of Elks of the United States of America,” which said corporation was duly incorporated and became a corporate body on the 19th day of June, 1895, upon filing with the proper officers of the District of Columbia of the the articles of incorporation hereinbefore specified and set forth;

“3. That the terms of this extension of such corporate powers shall be perpetual and not subject to lapse of time;

“4. That the business of such corporation is benevolent and charitable, and to inculcate the principles of Charity, Justice, Brotherly Love and Fidelity; to promote the welfare and enhance the happiness of its members; to quicken the spirit of American patriotism, to cultivate good fellowship, to perpetuate itself as a fraternal organization, and to provide for its government;

“5. That the number of its Trustees is five;

“6. That said corporation has no stock or shares and is not organized or operated for profit;

“7. That a regular and duly assembled meeting of the members of said corporation, had on the 8th day of July, 1913, after due notice to each of said members, it was by the members of said corporation unanimously voted to continue perpetually, the existing charter and power of said corporation and that proper legal proceedings be taken by the Officers and Trustees of said corporation to accomplish the same.

“In Witness Whereof, We have hereunto set our hands and seals and the seal of said corporation this 20th day of May, in the year of our Lord, one thousand nine hundred and fifteen.

RAYMOND BENJAMIN,
Grand Exalted Ruler
and President of said Corporation

FRED C. ROBINSON,
Grand Secretary
and Secretary of said Corporation

JAMES R. NICHOLSON,
CARY L. APPLGATE,
JOHN J. FAULKNER,
SAMUEL V. PERROTT,
CALVIN L. KINGSLEY,

Grand Trustees and Trustees of said Corporation.”

APPENDIX VI

The following are suggested forms for Lodge incorporation under Section 16.020, subject to such additions and changes as may be required by state law. It is suggested that a Lodge secure the assistance of legal counsel for the incorporation process. (The Grand Secretary's office does not provide such forms. Individual Lodges must prepare their documents containing these minimum mandatory provisions plus such other wording as necessary to satisfy state laws and their Lodge's requirements.)

ARTICLES OF INCORPORATION OF LODGE, NO. BENEVOLENT AND PROTECTIVE ORDER OF ELKS OF THE UNITED STATES OF AMERICA

KNOW ALL MEN BY THESE PRESENTS: That we, the undersigned have this day of,, voluntarily associated ourselves together for the purpose of forming a non-profit corporation under the laws of the State of, and we hereby certify:

FIRST: That the name of said non-profit Corporation shall be "..... Lodge, No., Benevolent and Protective Order of Elks of the United States of America."

SECOND: That the purposes for which said Corporation is formed are:

(a) The primary purpose for which this Corporation is formed is to inculcate the principles of Charity, Justice, Brotherly Love and Fidelity, to promote the welfare and enhance the happiness of its members; to quicken the spirit of American patriotism; to cultivate good fellowship and to perpetuate itself as a fraternal organization.

(b) Other purposes for which this Corporation is formed are: to do all the acts and things, and business and businesses in any manner connected with the objects or purposes or powers of the Corporation or necessary incidental convenient or auxiliary thereto, calculated directly or indirectly to promote the interests, objectives, and ideals of the organization, and in addition, to have and exercise all rights, powers and privileges now or hereafter belonging to or conferred upon non-profit corporations existing under the laws of the State of

(c) The foregoing statement of purpose or purposes shall be construed as a statement of both purpose and powers and the purposes and powers in each clause shall, except were otherwise expressed, be in no ways limited or restricted by reference to or inference from the terms of provisions of any other clause, but shall be regarded as independent purposes and powers.

THIRD: This Corporation is organized exclusively as a fraternal organization, as a nonprofit corporation, and its activities shall be conducted for the aforesaid purposes in such manner that no part of its net earnings will inure to the benefit of any member, Director, Trustee, Officer or individual.

FOURTH: That said Corporation is organized pursuant to the General Non-profit Corporation Law.

FIFTH: That the principal office for the transaction of business of the Corporation is to be located in the County of, City of

SIXTH: (a) The Officers, Directors and Trustees of this Corporation, their nominations, election or appointment, installation power and authority shall be in accordance with the provisions of the By-Laws of this Corporation.

(b) The governing body of this Corporation shall be its Board of Directors, which said Board of Directors shall consist of all the following: the Officers of the Corporation, who are entitled EXALTED RULER, ESTEEMED LEADING KNIGHT, ESTEEMED LOYAL KNIGHT, ESTEEMED LECTURING KNIGHT, and persons who shall bear the title of Trustee,

(NOTE: Fill in number of Trustees as fixed by By-Law of Lodge.)

(c) The names and addresses of the persons who are to act in the capacity of Directors of this Corporation until the selection of their successors are as follows:

SEVENTH: That the By-Laws of said Corporation shall define the duties of the Directors, Officers and Trustees of the Corporation; that the manner of election and term of office of the Directors, Officers and Trustees of the Corporation shall be as set forth in the By-Laws of the Corporation; that the number of persons to serve in the capacity of Directors may be changed from time to time by the By-Laws of said Corporation, and that said Corporation is hereby granted authority to make a Code of By-Laws for its government, and to amend the same from time to time as provided in said By-Laws.

EIGHTH: This Corporation is organized with the permission of Grand Lodge of the Benevolent and Protective Order of Elks of the United States of America, and the business of the Corporation and all its acts, decisions and other actions of its Officers and members in carrying out its purpose and powers shall at all times conform with the provisions of the Grand Lodge Constitution and Laws of the Order enacted pursuant thereto as well as the provisions of state law.

NINTH: In all matters relating to property, both real and personal, including but not limited to, purchase, sale, mortgage, hiring and leasing, the provisions of Section 16.050, Laws of the Order relating to notice and required vote shall be fully complied with.

TENTH: The term of this Corporation shall be perpetual.

ELEVENTH: Upon liquidation, dissolution or winding up of the Corporation, the Corporation's property shall be subject to the provisions of Section 9.170 of the Laws of the Order.

IN WITNESS WHEREOF, we have hereunto set our hands this day of,
(To be signed by incorporators and followed by acknowledgment to comply with local laws.)

REQUIRED RESOLUTION ON LODGE INCORPORATIONS

WHEREAS, at a regular meeting of Lodge, No., Benevolent and Protective Order of Elks of the United States of America, held on, a proposal to incorporate said Lodge under Section 16.020 and other applicable provisions of the Laws of the Order, was approved and adopted, and the Officers of said Lodge duly authorized and directed to institute and complete proceedings for such incorporation;

NOW THEREFORE, BE IT RESOLVED: that immediately after the completion of said incorporation and the approval thereof by the Committee on Judiciary of the Grand Lodge that the proper Officers of the Lodge be and are hereby authorized and directed to convey all of the property of this Lodge, both real and personal, held in trust or otherwise, to the incorporated Lodge.

CERTIFICATION

I, the undersigned Secretary of said Lodge, do hereby certify that the foregoing resolution was duly presented and adopted by said Lodge at a regular meeting thereof held on, and that said action has not been repealed, modified, or set aside, and that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto affixed my signature as Secretary, and have caused the seal of said Lodge to be affixed, this day of

Secretary

REQUIRED CERTIFICATE

I, the undersigned, Secretary of Lodge, No., Benevolent and Protective Order of Elks of the United States of America, do hereby certify that the following proceedings were duly and regularly had in connection with the proposed incorporation of said Lodge under Section 16.020, and other applicable provisions of the Laws of the Order ;

That on the day of, a written proposal to incorporate said Lodge was duly filed with me as Secretary;

That at the first meeting of the Lodge held after the receipt of such proposal, on the day of, the Exalted Ruler did fix the regular Lodge meeting to be held on the day of, as the time and place at which such proposal should be acted upon, and that pursuant thereto, I did give notice of the proposal to incorporate said Lodge by mailing a notice of the proposal to each member of said Lodge, at his last known address, at least ten (10) days prior to the date on which the vote was taken;

That at a regular session of said Lodge held on the day of, at which a quorum was present, said proposal to incorporate was presented, approved, and adopted by majority vote of those attending such session;

That none of the actions or proceedings set forth above has been repealed, modified or set aside, but they each remain in full force and effect, and are properly and fully reflected in the regular minutes and records of this Lodge.

IN WITNESS THEREOF, I have hereunto affixed my signature as Secretary, and have caused the seal of said Lodge to be affixed, this day of

Secretary

NOTE: The foregoing resolution, properly certified, with the Certificate of the Secretary, must be submitted in triplicate, with triplicate copies of the proposed Articles of Incorporation, to the Grand Lodge Committee on Judiciary (one copy of the Articles of Incorporation, to be fully executed) before filing with State Corporate office may be undertaken.

Following approval by the Committee on Judiciary, filing with State Corporate office may be undertaken.

Proposed amendments to existing Articles of Incorporation must be processed in same manner except that the required resolution as to surrender of property to the corporation will be omitted.

APPENDIX VII

MEMO ON SEPARATE CORPORATIONS

For Lodges desiring to form a separate corporation and to adopt corporate By-Laws, under Sec. 16.030 of the Laws of the Order, the following suggested forms of Articles of Incorporation and By-Laws are recommended. (The Grand Secretary's office does not provide such forms. Individual Lodges must prepare the documents from these Appendix-suggested forms.)

Where Lodge property is to be conveyed to such separate corporation, see elsewhere in this Appendix for a pattern of Resolution and Certificate which can be revised to apply to such separate corporation.

Also, a rental or lease agreement between the Lodge and the separate corporation, covering a fair rental for the Lodge room and Lodge facilities, should be prepared and executed.

Since corporate laws vary in different states, consult a competent lawyer, preferably a member of the Lodge, to assist in these matters.

The within suggested forms apply particularly in California.

ARTICLES OF INCORPORATION
OF
(NAME OF CORPORATION)
A Non-Profit Corporation

We, the undersigned, for the purpose of forming a corporation pursuant to the Corporations Code of the State of, also known as the General Non-Profit Corporation Law, hereby certify:

FIRST: The name of this corporation is

SECOND: The corporation's purposes are:

(a) Primarily to engage in the specific activities of operating restaurant and bar facilities, or to engage in athletic, entertainment and recreational activities, and to distribute currently the earnings or proceeds from such activities to one or more regularly constituted and existing non-profit Lodges, charities, organizations, funds, corporations or trusts forming a part of or controlled by the Benevolent and Protective Order of Elks of the United States of America.

(b) To engage to the extent permitted under the General Non-profit Corporation Law, in the pursuit of any purpose, related or unrelated to those described in clause (a) of this Article SECOND, and from time to time authorized or approved by the Board of Directors of this corporation;

(c) To act as partner or joint venturer or in any other legal capacity in any transaction, to the extent permitted under the General Non-profit Corporation Law;

(d) To have and exercise all rights and powers from time to time granted by law to a non-profit corporation.

THIRD: The corporation does not contemplate distribution of gains, profits or dividends to its members. In the event of a liquidation, dissolution or winding up of the corporation, or upon abandonment of its property, none of its property will inure to the benefit of any private person, but shall be transferred and distributed by the Board of Directors to one or more regularly constituted and existing non-profit Lodges, charities, organizations, funds, corporations or trusts forming a part of or controlled by the Benevolent and Protective Order of Elks of the United States of America, or as expressly provided by the Laws of the Order.

FOURTH: The county in the state of where the principal office for the transaction of business of this corporation is to be located is

FIFTH: (a) The number of Directors of the corporation is

(b) The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are as follows:

.....
.....
.....
.....

SIXTH: No shares of capital stock shall be issued by the corporation.

SEVENTH: The authorized number and qualifications of members of the corporation, the different classes of membership, if any, the property, voting, and other rights and privileges of members, and their liability to dues or assessments and the method of collection thereof, shall be set forth in the By-Laws, which shall not, however, provide for the issuance of more than one membership to any member.

IN WITNESS WHEREOF, the undersigned have executed these Articles of Incorporation this day of

(To be signed by all members of Board of Directors)

STATE OF}
COUNTY OF} ss.

On, before me, the undersigned, a Notary Public in and for the County of, State of, personally appeared, known to me to be the persons whose names are subscribed to the foregoing document, and acknowledged to me that they executed the same.

WITNESS my hand and official seal the day and year first above written.

Notary Public in and
for the said County and State
(SEAL)

APPENDIX VII *continued*

BY - LAWS

By-Laws for the regulation, except as otherwise provided by Statute, or its Articles of Incorporation, of

ARTICLE I

OFFICES

SECTION 1 — PRINCIPAL OFFICE

The principal office for the transaction of the business of the Corporation is hereby fixed and located at, in the City of, County of, State of The Board of Directors is hereby granted full power and authority to change said principal office from one location to another in said County. Any such change shall be noted on the By-Laws by the Secretary, opposite this section, or this section may be amended to state the new location.

SECTION 2 — OTHER OFFICES

Branch or local offices may at any time be established by the Board of Directors at any place or places where the corporation is qualified to function.

ARTICLE II

MEMBERS

SECTION 1 — MEMBERS

The membership of this corporation shall at all times consist of the individuals holding the following positions in Lodge, No. of the Benevolent and Protective Order of Elks of the United States of America:

- (1) The duly elected and qualified Exalted Ruler;
- (2) The duly elected and qualified Esteemed Leading Knight;
- (3) The duly elected and qualified Esteemed Loyal Knight;
- (4) The duly elected and qualified Esteemed Lecturing Knight;
- (5) The five duly elected and qualified Trustees;
- (6) The duly elected and qualified Secretary;
- (7) The duly elected and qualified Treasurer.

In addition, the membership of this corporation shall at all times include four other individuals who are members of Lodge, No. Said four individuals shall be members for one-year periods and shall be chosen each year by this corporation's then members at their annual meeting except that the first four individuals chosen shall be chosen by the above named individuals at a special meeting of the members held for that purpose and they shall be members until the first annual meeting is held and their successors are chosen. Anyone ceasing to hold one of the above named positions or ceasing to be a member of Lodge, No. shall automatically cease to be a member of this corporation.

SECTION 2 — ANNUAL MEETING

The annual meeting of the members of this corporation shall be held on the Tuesday following the first Monday in April of each year, commencing in April,, at the hour of on said date.

ARTICLE III

DIRECTORS

SECTION 1 — POWERS

Subject to limitations of the Articles of Incorporation, of the By-Laws, and of Part 1, Division 2, Title 1, of the Corporations Code, and subject to the duties of Directors as prescribed by the By-Laws, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation shall be controlled by, the Board of Directors. Without prejudice to such general power, but subject to the same limitations, it is hereby expressly declared that the Directors shall have the following powers, to wit:

FIRST: To select and remove all officers, agents and employees of the corporation, prescribe such powers and duties for them as may not be inconsistent with law, with the Articles of Incorporation or the By-Laws; fix their compensation and require from them security for faithful service.

SECOND: To conduct, manage and control the affairs of the corporation, and to make such rules and regulations therefor not inconsistent with law, with the Articles of Incorporation or the By-Laws, as they may deem best.

APPENDIX VII *continued*

THIRD: To adopt, make, and use a corporate seal, and to alter the form of such seal from time to time as in their judgment they may deem best, provided such seal shall at all times comply with the provisions of law.

FOURTH: To borrow money and incur indebtedness for the purposes of the corporation, and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor.

SECTION 2 — NUMBER AND QUALIFICATION OF DIRECTORS

The authorized number of Directors shall be seven (7). Only members shall qualify as Directors of the corporation.

SECTION 3 — SELECTION OF DIRECTORS AND TERM OF OFFICE

The Directors shall be elected by the members at the annual meeting of members to serve for one year and until their successors are elected and qualify. The Directors may be removed by the members at a special meeting called for that purpose by the Directors, upon receipt of written request for such special meeting from at least three members. If the Directors are removed, new Directors shall be elected at the special meeting to serve until the next annual meeting and until their successors are elected and qualified. Anyone ceasing to be a member of this corporation shall automatically cease to be a Director.

SECTION 4 — PLACE OF MEETING

Regular meetings of the Board of Directors shall be held at any place within or without the state which has been designated from time to time by resolution by the Board of Directors or by written consent of all members of the Board. In the absence of such designation, regular meeting shall be held at the principal office of the corporation. Special meetings of the Board may be held either at a place so designated or at the principal office.

SECTION 5 — REGULAR MEETINGS

The regular meeting of the Board of Directors will be without call on each (day) at (hour), and notice of all regular meetings of the Board of Directors will be dispensed with.

SECTION 6 — SPECIAL MEETINGS

Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President, or if he is absent or unable, or refuses to act, by the Vice-President or by any three (3) Directors.

Written notice of the time and place of special meetings shall be delivered personally to the Directors, or be sent to each Director by mail, addressed to him at his address as it is shown upon the records of the corporation. In case such notice is mailed it shall be deposited in the United States mail in the place in which the principal office of the corporation is located at least forty-eight (48) hours prior to the time of the holding of the meeting. In case such notice is delivered as above provided, it shall be so delivered at least twenty-four (24) hours prior to the time of the holding of the meeting. Such mailing or delivery as above provided shall be due, legal and personal notice to such Director.

SECTION 7 — ENTRY OF NOTICE

When any Director has been absent from any special meeting of the Board of Directors, an entry in the minutes to the effect that notice has been duly given shall be conclusive and incontrovertible evidence that due notice of such special meeting was given to such Director as required by law and the By-Laws of the corporation.

SECTION 8 — WAIVER OF NOTICE

The transaction of any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though had as a meeting duly held after regular call and notice, if a quorum be present and if, either before or after the meeting, each of the Directors not present, sign a written Waiver of Notice, or a consent to holding such meeting or an approval of the minutes thereof. All such waivers, consents, or approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

SECTION 9 — QUORUM

A majority of the authorized Board of Directors shall be necessary to constitute a quorum for the transaction of business, except to adjourn as hereinafter provided. Every act or decision done or made by the majority of the Directors present at a meeting duly held at which a quorum is present, shall be regarded as the act of the Board of Directors, unless a greater number be required by law, or by the Articles of Incorporation.

SECTION 10 — ADJOURNMENT

A quorum of the Directors may adjourn any Directors meeting to meet again at a stated day and hour; provided, however, that in the absence of a quorum, a majority of the Directors present at any Directors meeting, either regular or special, may adjourn from time to time until the time fixed for the next regular meeting of the Board.

APPENDIX VII *continued*

ARTICLE IV

OFFICERS

SECTION 1 — OFFICERS

The officers of the corporation shall be a President, Vice-President, Secretary, and Treasurer. One person may hold two or more offices, except those of President and Secretary. Only members of the Board of Directors of this corporation may be officers of the corporation.

SECTION 2 — ELECTION

The officers of the corporation shall be chosen annually by the Board of Directors, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his successor shall be elected and qualified.

SECTION 3 — REMOVAL AND RESIGNATION

Any officer may be removed, either with or without cause, by a majority of the Directors at the time in office, at any meeting of the Board, or, except in case of an officer chosen by the Board of Directors, by any officer upon which such power of removal may be conferred by the Board of Directors.

Any officer may resign at any time by giving written notice to the Board of Directors or to the President, or to the Secretary of the corporation. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 4 — VACANCIES

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed by the By-Laws for regular appointments to such office.

SECTION 5 — PRESIDENT

The President shall be the chief executive officer of the corporation and shall, subject to the control of the Board of Directors, have general supervision, direction and control of the activities and officers of the corporation. He shall preside at all meetings of the members, and at all meetings of the Board of Directors. He shall have the general powers and duties of management usually vested in the office of President of a corporation, and shall have such other powers and duties as may be prescribed by the Board of Directors or the By-Laws.

SECTION 6 — VICE-PRESIDENT

In the absence or disability of the President, the Vice-President shall perform all the duties of the President, and when so acting shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice-President shall have such other powers and perform such other duties as from time to time may be prescribed for him by the Board of Directors or the By-Laws.

SECTION 7 — SECRETARY

The Secretary shall keep or cause to be kept, at the principal office or such other place as the Board of Directors may order, a book of minutes of all meetings of Directors and members with the time and place of holding, whether regular or special, and, if special, how authorized, the notice thereof given, the names of those present at Directors' meetings, the number of members present at members' meetings, and the proceedings thereof.

The Secretary shall give, or cause to be given, notice of all the meetings of the Board of Directors required by the By-Laws or By-Law to be given, and he shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or by the By-Laws.

SECTION 8 — TREASURER

The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and transactions of the corporation, including accounts of its endowments, gifts, assets, liabilities, receipts, disbursements, gains, losses, and net worth. The books of account shall at all times be open to inspection by any Director.

The Treasurer shall deposit all moneys and other valuables in the name and to the credit of the corporation with such depositories as may be designated by the Board of Directors. He shall disburse the funds of the corporation as may be ordered by the Board of Directors, shall render to the President and Directors, whenever they request it, an account of all of his transactions as Treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board of Directors or the By-Laws.

The Treasurer shall be bonded in such amount as may be determined from time to time by the Board of Directors.

APPENDIX VII *continued*

ARTICLE V

MISCELLANEOUS

SECTION 1 — CHECKS, DRAFTS, ETC.

All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness, issued in the name of or payable to the corporation shall be signed or endorsed by such person or persons and in such manner as, from time to time, shall be determined by resolution of the Board of Directors.

SECTION 2 — CONTRACT ETC., HOW EXECUTED

The Board of Directors, except as in the By-Laws otherwise provided, may authorize any officer or officers, agent or agents, to enter into any contract or execute any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances, and, unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or to any amount.

ARTICLE VI

AMENDMENTS

SECTION 1 — BY DIRECTORS

The power to repeal and amend the By-Laws, except the power to fix or change the number of Directors, is hereby granted to the Board of Directors. If the members entitled to exercise a majority of the voting power, or a vote of a quorum at a meeting of members duly called pursuant to the By-Laws give their assent, the Board of Directors may fix or change the number of Directors of the corporation.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

- (1) That I am the duly elected and acting Secretary of (name of corporation), a (name of State) non-profit corporation; and,
- (2) That the foregoing By-Laws, comprising pages, constitute the original By-Laws of said corporation as duly adopted at the Special Meeting of the Board of Directors hereof duly held on the day of

(SEAL)

.....
Secretary

APPENDIX VIII

**SUGGESTED
CONSTITUTION AND BY-LAWS OF THE
PAST EXALTED RULERS ASSOCIATION
OF LODGE NO.
BENEVOLENT AND PROTECTIVE ORDER OF ELKS
OF THE UNITED STATES OF AMERICA**

PER ASSOCIATION CONSTITUTION

PREAMBLE

The purpose of the Past Exalted Rulers Association is to foster the spirit of good fellowship between the members of the Lodge, and to render experienced counsel and assistance to the Lodge, thereby keeping the administration of the Lodge in safe and capable hands, and to make the Lodge a credit to the community and the Order.

It is upon this high plane of duty that every Past Exalted Ruler is called into the service of his Lodge.

**I.
NAME**

The name of this organization shall be The Past Exalted Rulers Association of Lodge No. of the Benevolent and Protective Order of Elks.

**II.
PURPOSE**

The purpose of this Association, organized under authority of the Grand Lodge, shall be to stand ready at all times to give counsel, advice and aid to this Lodge and its Officers; to maintain the high standards of the Lodge and to nourish the spirit of good fellowship among the Officers and members.

**III.
MEMBERSHIP**

Every Past Exalted Ruler of this Lodge, and every Past Exalted Ruler of any other Elks Lodge who is now a member, or shall hereafter become a member, of this Lodge, automatically becomes a member of this Association, and shall continue as a member as long as he shall be in good standing.

**IV.
OFFICERS**

The Officers of the Association shall be President, Vice-President, and Secretary-Treasurer. The President and Vice-President cannot serve successive terms.

**V.
COMMITTEES**

Such committees as may be found necessary may be appointed from time to time to serve for any specific purpose; however, an Executive Committee of three shall be selected at the beginning of each Lodge Year, and this committee shall cooperate with the Officers of the Lodge in extending its service for the good of the Order. This committee may be appointed by the President, unless the Association prefers to elect same.

**VI.
AMENDMENTS**

This constitution shall be amended only at any regular monthly meeting, and it shall require a two-thirds vote of the members present to amend.

PER ASSOCIATION BY-LAWS

**I.
ELECTION OF OFFICERS**

The annual meeting at which Officers of this Association shall be elected shall be held on the same date as the Officers of the Lodge are installed. Election may be by voice or ballot.

**II.
MEETINGS**

Regular meetings of this Association shall be held at least once each month, except in July and August, at a date to be selected at the annual meeting when its Officers are elected. Special meetings may be called by the President or by any three members of the Association upon notice to all members. Three (3) members, or a simple majority of its members, whichever is less, shall constitute a quorum at regular or special meetings.

**III.
STATE ELKS ASSOCIATION**

This Association shall cooperate with the State Elks Association in all activities for the good of the Order.

**IV.
DUES**

The regular membership dues of this Association shall be \$ per year, for each member, payable at the date of the annual meeting for the election of Officers.

**V.
AMENDMENTS**

These By-Laws may be amended at any regular monthly meeting of the Association upon the vote of two-thirds of the members attending such meeting.

**VI.
RULES OF ORDER**

The rules which govern the Lodge shall be followed in the parliamentary deliberations of this Association.

APPENDIX IX

**FORM TO BE USED BY STATE ASSOCIATIONS
IN SECURING APPROVAL OF CONSTITUTION AND/OR
BY-LAWS THEREOF OR AMENDMENTS THERETO**

All proposed Constitutions and/or By-Laws and Amendments thereto, after adoption by the State Association, must be approved by the Chairman of the Grand Lodge Committee on Judiciary as provided in Section 4.420, Laws of the Order. Such proposals should be typewritten in quadruplicate, one copy for the State Association file and three fully executed copies to be forwarded to the designated member of the Committee on Judiciary, together with triplicate certificates signed by the State President and Secretary under seal of the State Association, which certificate should be in substantially the following form:

“This is to certify that the following amendments to the Constitution (or By-Laws) of Elks Association, being Sections of Article submitted herewith to the designated Member of the Grand Lodge Committee on Judiciary for approval were proposed at a regular session of said State Elks Association on the day of,, and were adopted by vote of the members of said Association entitled to vote thereon, all as provided for by the Constitution (or By-Laws) of said State Association.

.....
State President

(Impress State Association Seal here)

.....
State Secretary

APPENDIX X

RITUAL FOR THE INSTALLATION OF OFFICERS OF STATE ASSOCIATIONS

(**Note:** The Grand Lodge does not prescribe any particular ritual for State Associations; this brief form may be used if desired, or any Association may adopt and use its own ritual, so long as the dignity of the occasion and the Laws of the Order are observed.)

Past President: The Sergeant-at-arms will please retire with the Officers-elect to the anteroom.

Tiler: President (name), the Sergeant-at-arms, with the Officers-elect, requests admittance.

Past President: Admit them.

(The Sergeant-at-arms leads the Officers before the Altar)

Past President: *(To Officers):* You have been chosen by the members of this Association to fill positions of trust and responsibility for the ensuing year. Do you each accept the office to which you have been elected?

Officers-elect: I do.

Past President: Do you each, under your obligation as an Elk, solemnly promise and swear to support the Constitution and laws of this Association, to further its interests, promote its welfare, and advance the work for which it is organized?

Officers-elect: I do.

Past President: The Chaplain will invoke the divine blessing.

Chaplain: Grand Exalted Ruler of the Universe, grant we beseech Thee, Thy special favors upon these Officers of this Association. Invest them with the power and desire to exemplify the principles of Charity, Justice, Brotherly Love, and Fidelity, so that under their direction the work of this Association and the Order of Elks may redound to the credit of Him, who in Thy name taught us to "Do unto others as we would they do unto us," and Thine shall be the power and glory forever and ever. Amen.

Past President: *(To Officers):* You have been elected by the members of this Association to fill its various offices for the ensuing year. This is the result of the confidence reposed in you, their belief in your ability and their knowledge that you will continue to practice the principles of our Order. You are charged that it is your responsibility and obligation to carry on the work for which our Order was founded. You shall ever acknowledge and protect the sovereignty of the Grand Lodge, and obey its Constitution and Statutes.

Past President: The Sergeant-at-arms will now conduct the Officers to their respective stations.

Past President: Now, President (name), I present you with this gavel, the emblem of your authority. Use it wisely and with discretion, and may your every act reflect the principles of Charity, Justice, Brotherly Love and Fidelity. I now declare that the Officers of this Association for the ensuing year have been regularly installed.

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