



STATUTES ANNOTATED

2010

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

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ANNOTATED**

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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

REISSUE OF 2009

Compiled and Edited by and under the Direction of the
COMMITTEE ON JUDICIARY
2009-2010
HON. PRISCILLA A. SCHWAB, Chairman

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Grand Lodge

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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 (188-1899); 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 a 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	Hon. Glenn L. Miller	Hon. Franklin J. Fitzpatrick
1968	Hon. Glenn L. Miller	Hon. Franklin J. Fitzpatrick
1969	Hon. Glenn L. Miller	Hon. Franklin J. Fitzpatrick
1970	Hon. Thomas A. Goodwin	Hon. Franklin J. Fitzpatrick
1971	Hon. Thomas A. Goodwin	Hon. Homer Huhn, Jr.
1972	Hon. Thomas A. Goodwin	Hon. Homer Huhn, Jr.
1973	Hon. Edward C. Alexander	Hon. Homer Huhn, Jr.
1974	Hon. Edward C. Alexander	Hon. Homer Huhn, Jr.
1975	Hon. George J. Balbach	Hon. Homer Huhn, Jr.
1976	Hon. George J. Balbach	Hon. Homer Huhn, Jr.
1977	Hon. George J. Balbach	Hon. Stanley F. Kocur
1978	Hon. Edward W. Connolly	Hon. Stanley F. Kocur
1979	Hon. Raymond V. Arnold	Hon. Stanley F. Kocur
1980	Hon. Raymond V. Arnold	Hon. Stanley F. Kocur
1981	Hon. Eugene F. Costello	Hon. 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	Hon. Seymour Nathanson	Hon. Stanley F. Kocur
1985	Hon. Robert R. Bean	Hon. Stanley F. Kocur
1986	Hon. Robert R. Bean	Hon. Stanley F. Kocur
1987	Hon. John J. Delworth, Jr.	Hon. Stanley F. Kocur
1988	Hon. John J. Delworth, Jr.	Hon. Stanley F. Kocur
1989	Hon. Robert L. Earnest	Hon. James C. Varenhorst
1990	Hon. Robert L. Earnest	Hon. James C. Varenhorst
1991	Hon. Albert Maffei	Hon. James C. Varenhorst
1992	Hon. Albert Maffei	Hon. James C. Varenhorst
1993	Hon. David R. Bailly	Hon. James C. Varenhorst
1994	Hon. David R. Bailly	Hon. James C. Varenhorst
1996	Hon. Joseph H. Riley, Jr.	Hon. James C. Varenhorst
1997	Hon. James M. McQuillan	Hon. James C. Varenhorst
1998	Hon. James M. McQuillan	Hon. James C. Varenhorst
1999	Hon. David E. Nething	Hon. Jack M. Jensen
2000	Hon. David E. Nething	Hon. Jack M. Jensen
2001	Hon. Leon A. Karjola	Hon. Jack M. Jensen
2002	Hon. Leon A. Karjola	Hon. Jack M. Jensen

2003	Hon. James L. Nicholson	Hon. Jack M. Jensen
2004	Hon. James L. Nicholson	Hon. Jack M. Jensen
2005	Hon. Michael C. Pickering	Hon. Jack M. Jensen
2006	Hon. Michael C. Pickering	Hon. Jack M. Jensen
2007	Hon. Mark E. Huegel	Hon. Jack M. Jensen
2008	Hon. Thomas S. Brazier	Hon. Bryan R. Klatt
2009	Hon. Priscilla A. Schwab	Hon. Bryan R. Klatt
2010	Hon. Michael D. Clark	Hon. Bryan R. Klatt

HON. MICHAEL F. SMITH
HON. MICHAEL D. CLARK
HON. BRYAN R. KLATT
Publication Committee

Dated: September, 2008

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 AND Orlando FL, 2010..

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.

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.

HON. Michael D. Clark, Chairman
Committee on Judiciary
Grapevine, TX, Lodge No. 2483

Hon. Carl S. Simpson, Lake Stockton, MO Lodge No. 2858
 Hon. Michael F. Zelen, Saugus-Everett, MA Lodge No. 642
 Hon. James St. George, Lyndhurst, NJ Lodge No. 1505
 Hon. Eric K. Mulholland, Bay City, MI Lodge No. 88
 Hon. James F. Kile, Boise, ID Lodge No. 310
 Hon. Ronald L. Hicks, Fredericksburg Lodge No. 875
 Hon. Anthony Mauro, Hollister, CA Lodge No. 1436
Members, Committee on Judiciary – 2010-2011

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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 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 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.

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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.

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 Subordinate 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.

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07 A Past Exalted Ruler suspended for non-payment 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.

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 peacetime, does not entitle one to status of Past Exalted Ruler.

19 An Exalted Ruler who has not attended a Grand Lodge session is considered a member of the Grand Lodge but is not eligible for a Grand Lodge office until he has attended and served as a Member of one Grand Lodge session.

20 An Exalted Ruler served meritoriously for seven month 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 become a Past Exalted Ruler.

21 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.

22 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.

23 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, 1989*)

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Section 2.

- (1) 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 Treasurer
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.

(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 Treasurer, the Grand Tiler, 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 re-election. 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.

- OPINION -

01 This provision has no application to Trustees of a Subordinate Lodge, who may properly be elected to succeed themselves under Section 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 Subordinate 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 Subordinate 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,

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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.

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

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any department or Officers thereof, or such as will preserve the interests or promote the general welfare of the Order and its Members.

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.

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 Subordinate Lodge to the effect that a present Grand Lodge Statute should be amended for reasons advanced in the memorandum submitted to the

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. The Grand Lodge may authorize an assessment as deemed necessary or desirable to contribute to the separate Corporation that maintains the Elks National Home. 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 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 Life Member owing one year's annual dues assessed by the Grand Lodge may be dropped from the rolls by the Lodge of which he is a

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Member in accordance with the provisions of Section 14.160.

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

04 No vote or notice to membership of the Lodge is necessary to authorize the Lodge

Secretary to make remittance for Grand Lodge dues.

05 Under Section 16.010, each Lodge must report to the Grand Secretary all Members upon its rolls as of March 31 of each year and remit Grand Lodge dues and assessment based thereon. This means that dues and assessments covering a Member initiated, say, the previous July, must be then reported and remitted on or before the following May 1st.

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

Section 16. Subordinate 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 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 Subordinate 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 of 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 Section 14.110 and 14.120.

Section 17. There may be more than one Subordinate Lodge established in any city, village or community, or in any borough where a city is divided into boroughs. Where more than one Subordinate Lodge is established within the corporate limits of any municipality, or where an existing Subordinate 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:

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

The Youth 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 Youth 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 and State Association By-Laws, one or more charitable, educational or philanthropic projects. A Lodge Corporation formed under this Article shall comply with the provisions of *Section 16.030* unless otherwise required by the laws of the State where incorporated.

NOTE: For a separate non-profit corporation or charitable trust to be in compliance with this Constitutional provision, it must also satisfy the following requirements taken from applicable statutes before officially filing the appropriate legal documents:

(1) The Articles of the Corporation/Trust limit it to serve a single charitable purpose;

(2) The Article of the Corporation/Trust provide that, in the event of its dissolution, all of the Corporation's/Trust's assets shall be distributed to the Lodge responsible for its existence, or to another legal entity forming a part of and controlled by the Benevolent and Protective Order of Elks of the United States of America;

(3) Formation and maintenance of the Corporation/Trust has, upon proper notice, been approved by the Lodge's membership;

(4) Formation and maintenance of the Corporation/Trust has, upon written application, been granted prior written approval by a member of the Committee on Judiciary.

(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 co-operative 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 The Organization of an "Eleven O'Clock Club" with separate By-Laws and Officers is contrary to the laws of our Order.

05 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.

06 It is illegal to organize a "Twenty-five Year Club" of Elks.

07 An "Elks Glee Club" can only function under a committee appointed and controlled by the Lodge. All members must be Elks and all receipts be for benefit of the Lodge and be turned over to the Lodge Treasurer.

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

09 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.

10 The organization of the "Bucks Club" with dues and initiation fees offends against the laws of our Order. Every Elk is entitled to become a

CONSTITUTION

member of every Elk-sponsored activity without payment of additional fees or dues.

11 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.

12 A Lodge may maintain an Elks Chorus, Patrol or Band. They must exist, be controlled by and operated under a committee of the Lodge. Funds must be controlled and handled by the Lodge Treasurer. Dues and initiation fees cannot be remitted because of membership in such activities.

13 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.

14 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.

15 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.

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

17 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.

18 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.

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

20 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 Subordinate Lodges (**Article III**). By Statute (**Section 18.020**) State Associations may fix annual dues for membership. All Lodge are required to maintain membership in a State Association. It must, as a condition of continuing membership, comply with lawful enactments of such Association, including payment of dues.

21 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. A separate non-profit corporation for a single purpose such as a scholarship or a single charitable purpose would be permissible. However, if an attempt is made to set up charitable activities which are all-inclusive, then such a non-profit corporation would not be permissible.

22 A formal State organization of Elks Subordinate Lodge Secretaries, which has By-Laws, Officers, and assesses dues is in records and books are subject to audit and violation of Article III, Section 18 of the Constitution and Section 9.070.

23 A Lodge may contribute its funds to charitable, welfare or civic projects of a Chamber of Commerce.

24 A Past Exalted Rulers Association of a State Association is permitted under the provisions of Article III, Section 18 of the Constitution and Section 13.090.

25 A locker room Club composed of Elks may not rent a room in the Lodge building for placing lockers and for a dressing room, electing Officers and assessing dues.

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26 This provision of the Grand Lodge Constitution does not prohibit a Subordinate 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.

27 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.

28 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.

29 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.

30 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.

31 The issuance of social or club memberships 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.

32 Only Past Exalted Rulers of Lodges having membership in the State Association are eligible

to be members of the Past Exalted Rulers' Association of the State Association.

33 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.

34 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 to the control of the Lodge.

35 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.

36 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 Subordinate Lodge facility must comply with the provisions of the Grand Lodge Statutes, Subordinate Lodge By-Laws, and House Rules.

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

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.

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Section 20. Subordinate 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 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.

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 Subordinate 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, before admitting the Lodge to membership of the Association.

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.

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 Subordinate Lodges (Article III). By Statute (Section 18.020) State Associations may fix annual dues for membership. All Lodge are required to maintain membership in a State Association. It must, as a condition of continuing membership, comply with lawful enactments of such Association, including payment of dues.

08 A State Association has control over Elks carrying a paid-up membership card to the extent that is concerned with the internal affairs of the State Association. Therefore, if one of the qualifications for entry into a tournament is that the Lodge to which the member belongs must belong to the State Association, a Member of a Lodge that has withdrawn from the Association is not eligible to compete in the tournament.

09 Election or appointment of District Officers of a State Association under properly approved State Constitutional or By-Law provision is not

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inconsistent with any Grand Lodge law and is a valid exercise of State Association authority.

10 If a Lodge desires either to join or withdraw from a State Association, it should follow the procedure set forth in the Constitution and By-Laws of the Association.

11 The Grand Lodge is in no way involved in the levying of dues and assessments of a State Association. This is governed by the provisions

of Section 18.020 and the Constitution and By-Laws of the Association.

12 No State Association shall create a Forum to exercise judicial power over Subordinate 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.

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.

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.)

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.

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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 Subordinate Lodges of the Order; he shall have access to all books, papers, documents and letters of any Officer of the Grand Lodge or any Subordinate 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 Subordinate 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.

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 Subordinate Lodge; subject to such limitations as the Grand Lodge may by Statute provide.

· OPINION ·

CONSTITUTION

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, 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, 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, 1973*)

04 Where a Subordinate 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 Subordinate 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 violation of the Constitution of the United States,

State law and general public policy, have been found to be without merit. (*Grand Forum, 1973*)

05 Where a Subordinate 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 wide spread 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, 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 Subordinate 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, 1973*)

Section 11. The Grand Exalted Ruler shall have power to convene a Subordinate 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

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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.

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 Subordinate 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. That 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 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 Subordinate 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.

CONSTITUTION

- OPINION -

01 No State Association shall create a Forum to exercise judicial power over Subordinate 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 Subordinate Forums, on appeal. It may alter the punishment given by the Subordinate 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.

Section 4. The Subordinate Forums shall consist of the Presiding Justice of the Subordinate Forum appointed by the Exalted Ruler in accordance with the Statutes of the Order and four Members of each Subordinate Lodge who shall be appointed by the Exalted Ruler. Subordinate Forums shall have original jurisdiction in all matters involving charges against a Member of a Subordinate Lodge. Appellate jurisdiction over judgments rendered by Subordinate 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 Subordinate Forum as a member of such Forum, Such Presiding Justice 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 Subordinate Forum who also presides over the proceedings.

- DECISIONS -

01 The appointment of a Presiding Justice of a Subordinate Forum is an act specifically reserved to the Exalted Ruler of a Lodge. The 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 Subordinate Forum. A Complaint against the Subordinate Lodge in such case fails to state a cause of action over which the Grand Forum has original jurisdiction and will be dismissed on demurrer being filed. Subordinate Forums have original jurisdiction in all matters involving charges against a Member of a Subordinate Lodge and the Grand Forum has only appellate jurisdiction from the Subordinate Forum in such case. (*Grand Forum, 1967*)

CONSTITUTION

02 Subordinate Forums have original jurisdiction in all matters involving charges against a Member of a Subordinate Lodge and the Grand

Forum has only appellate jurisdiction from the Subordinate Forum case. (*Grand Forum, 1971*)

Section 5. The Subordinate Forum shall try Members of Subordinate Lodges for violation of the laws of the Order. The decision of a Subordinate 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 Subordinate 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 Subordinate 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, 1919*)

02 On appeal the Grand Forum cannot substitute its judgment for that of the triers of the fact. It may only consider whether there is any legal evidence tending to sustain the complaint. (*Grand Forum, 1948*)

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.*)

- OPINON -

01 A Member who has been expelled from the Order after trial by the Subordinate Forum, can-

not 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 Subordinate 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 judgment 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

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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.

ARTICLE VII **SUBORDINATE LODGES**

Section 1. A Subordinate 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 Subordinate 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, an Organist, a Vocalist, a Board of Trustees of not less than three 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 Subordinate 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 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,

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or by specific direction of the Lodge in regular session.

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

Section 3. Nine Members of a Subordinate Lodge, of whom at least two shall be elective Officers, shall constitute a quorum.

- OPINION -

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

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 qualification 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 Communist doctrine of 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 Subordinate 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 communists or 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.

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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 A former Communist Party member who several years ago sincerely renounced his affiliation with the Party and is not now in any way connected with it, may become a member of the Benevolent and Protective Order of Elks if he is otherwise qualified.

09 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.

Section 5. Subordinate 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.

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.

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

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.

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.

07 There is not such thing as jurisdiction over a certain territory by a Lodge by "priority".

04 To determine the jurisdiction of adjoining Lodges, the distance between them must be

Section 6. The fees for membership in a Subordinate 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

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amendment, approval by Judiciary is necessary.
Dues may not be changed to become effective

prior to the next succeeding April first.

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

Section 8. Each Subordinate 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 Subordinate 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 An unaffiliated Elk is not entitled to any rights or privileges of the Club even though he may be a stockholder in the Corporation which owns the building.

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

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

06 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.

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

08 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 of 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 Subordinate Lodge.

02 The expressed intention of the foregoing Section is that Subordinate 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 Subordinate 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

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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 where by the name of a Subordinate 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 Subordinate 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 Subordinate 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

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 Subordinate Lodges for adoption or rejection, and a time fixed when the Subordinate Lodges shall vote upon the same. Each Subordinate 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 Subordinate Lodge present and voting. If an amendment shall receive a majority of the votes cast by the Subordinate Lodges, it shall be declared adopted, and shall be immediately promulgated as part of this Constitution.

Section 2. The failure of a Subordinate 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.

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 convening 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 1.100. 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.

Section 1.115. Notice: Except as otherwise directed by Executive Order, and 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 Members 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.

ANNOTATED STATUTES

- 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 violation, etc. and therefore are generally not crimes of moral turpitude.

Section 1.120. Order: - That corporation known as "Benevolent and Protective Order of Elks of the United States of America."

Section 1.130. Parliamentary Procedure: - Roberts Rules of Order 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 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 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.

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

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.

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.

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

- 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, 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.

ANNOTATED STATUTES

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.

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 Lodge, of whom at least two shall be elected Officers, shall constitute a quorum for the transaction of business of a Lodge in a regular or special meeting. 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 of the Past Exalted Rulers Association or Advisory Committee, as defined in Section 13.190 hereof.

- OPINION -

01 Visiting Members cannot be counted.

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 PGER(s) 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. Subordinate Forum - The judicial tribunal of a Lodge.

Section 1.210. Subordinate 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.

- OPINIONS -

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

02 If the Subordinate Forum box has not been prepared at the time of its need arises, the Trustees and the Secretary shall immediately attend to its preparation. (See 8.210, Op.01)

Section 1.220. Subordinate Lodge - A duly organized group of Members of the Order which has been granted a Charter as a Lodge of the Order.

Section 1.129. 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. {See Art I, Sec 1-01}

— CHAPTER 2 —

ANNOTATED STATUTES

RITUALS

Section 2.010. Only rituals prepared by the Ritualistic Committee of the Grand Lodge and approved by the Grand Lodge in Session assembled shall be used in opening and closing a Lodge meeting, initiation of candidates, and installation of Lodge Officers and institution of a new Lodge. There is no shortened form for any of these Rituals.

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 he finds them to be true, he 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 pre-recorded 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, participate in processions and the like

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

ANNOTATED STATUTES

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.

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 rolls despite being

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.

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.

Section 3.030. If a written ballot is required, 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

ANNOTATED STATUTES

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.

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 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.

ANNOTATED STATUTES

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 PER's 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, may be nominated for any office by any Member in good standing. Any By-Law attempting to provide otherwise is void.

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 remains 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

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.

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.

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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 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 elected 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 in good standing 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 canvas the 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. 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.

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16 The Leading Knight cannot preside during an 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 Roberts 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 A Lodge may defer action on the acceptance of the resignation of an Officer until the next regular Lodge meeting; however, he may withdraw his resignation before action is taken by the Lodge.

25 If the ballot for office results in a tie, there is not choice and a new ballot must be taken. The Exalted Ruler has the same right to vote as any other Member.

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

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.

— 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 each 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.

ANNOTATED STATUTES

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 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.

Section 4.030. Immediately following his installation, the Grand Exalted Ruler shall designate the Chief Justice of the Grand Forum and appoint the members for a term of one year, designating a Chairman and such Vice-Chairmen as he deems necessary to each of the following standing committees: Americanism, Auditing and Accounting, Credentials, Government Relations, Judiciary, Lodge Activities/State Associations, Membership, Public Relations, Ritualistic, and Youth Activities.

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.

- OPINIONS -

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 therefore.

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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 therefore. He shall prepare all forms for the use of the Grand Lodge and Subordinate 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 Subordinate 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, and shall pay the same, together with any increment, to the Grand Treasurer monthly 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.

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.

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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.

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.

GRAND TREASURER

Section 4.170. The Grand Treasurer, before entering upon the duties of his office, shall provide a bond approved by the Chairman of the Board of Grand Trustees. The premium for said bond shall be paid by the Order.

He shall receive as expenses a sum fixed annually by the Board of Grand Trustees.

He 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 file the original receipt with the Grand Secretary, the duplicate with Chairman of the Grand Trustees, and retain the triplicate.

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

ANNOTATED STATUTES

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 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.

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 Subordinate 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 Subordinate 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 Treasurer 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

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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 Subordinate 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 Subordinate Lodge, and separate corporations organized and existing under Section 16.030 of the Grand Lodge Statute 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.

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 (by most direct route) by first class fare if available, otherwise by coach fare.

In no event shall the travel allowance exceed first class air fare plus per diem applicable thereto.

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 Session, 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.

- OPINIONS -

01 Any part of a day spent in traveling shall constitute a full day for determining per diem.

(See *Annotations 3.030 Opinion 01 and 4.010 Opinion01.*)

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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, one of which shall be held at the Elks National Home. 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.

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 said Commission.
 - 2.** A copy of each issue of the magazine shall be mailed 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.
- 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.
- 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 Service Commission shall be composed of five members whose term of office shall be 5 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.
- 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 Sub-Committees from its membership.
- d.** To hold meetings and to specify the dates and places of 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 Section 4.010, 4.020 and 4.021.
- i.** To recommend Grand Lodge Committee appointments.
- j.** To recommend all District Deputy Grand Exalted Ruler appointments 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 Ruler visitations.

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- 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 4.320. The Committee on Americanism is charged with the duty of instituting and promoting patriotic activities 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 shall review a copy of the annual audit report of each Lodge. It shall evaluate the report and make recommendations to the Lodge. It shall report suggestions to the Grand Lodge for improvement in accounting procedures.

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 4.350. The Committee on Credentials shall examine and report upon the credentials of the members of the Grand Lodge. It shall meet prior to the opening of the Grand Lodge Session and report upon the convening thereof. All questions relative to the right of members of the Grand Lodge to sit in Grand Lodge Sessions shall be determined by the Committee subject to the approval of the Grand Lodge.

Section 4.360. The Committee on Government Relations is charged with the duty and responsibility of implementing a Government Relations program of the Order.

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 Constitution By-Laws, Rules and regulations of State Associations, including revisions and amendments and send copies to the Grand Secretary. None of the above are effective unless and until approved.

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- 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 Publication 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.
- 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.

· 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 Subordinate 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 guilty or innocence of an accused or on the

inadequacy of a complaint pending before a Subordinate Forum. (*Grand Forum, 1989*)

Section 4.380. The Membership Committee shall have general charge of all matters pertaining to the promotion of membership, indoctrination, lapsation, investigations, reinstatements, Stray Elks and all matters pertaining to the organization and institution of new Lodges.

· OPINION ·

01 The procedures for investigation and indoctrination of an applicant are within the scope of responsibility of this Committee.

Section 4.390. The Committee on Lodge Activities/State Associations shall have supervision of such matters as may be referred to it by the Grand Exalted Ruler, and with all matters pertaining to the organization and government of State Associations and the activities thereof sponsored or recommended by the Grand Lodge or the Grand Exalted Ruler.

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Section 4.400. The Committee on Public Relations is charged with the duty and responsibility of establishing and implementing of a public relations program for the Order.

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 4.420. The Committee on State Associations is charged with all matters pertaining to the organization and government of State Associations and the activities thereof sponsored or recommended by the Grand Lodge or the Grand Exalted Ruler and of all matters pertaining to the organization and institution of new Lodges.

Section 4.430. The Youth Activities Committee shall prepare, supervise and carry on all programs of the Order on behalf of the youth of our country. It shall have charge and supervision of all matters referred to it by the Grand Exalted Ruler or the Grand Lodge pertaining to the youth programs of the Order.

Section 4.440. Every Committee of the Grand Lodge has authority and power to request such papers, other articles and to require cooperation of Members as may be necessary in connection with any subject under its jurisdiction.

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

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 Ruler 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.

ANNOTATED STATUTES

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.** Grand the performance of the Lodge Officers in their exemplification of the Ritual of initiation.
- d.** Prepare a report of his visit on forms provided by the Grand Secretary.
- e.** Prepare a letter of comment regarding deficiencies noted.
- f.** 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 Membership 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, December or January, and April or May, the District Deputy shall conduct clinics to familiarize the Officers of the Lodges in his/her District with the Grand Lodge programs and to assist such Officers in carrying out the programs. The Grand Exalted Ruler upon the recommendation of the Sponsor may waive the holding of any one clinic.

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 Office 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.

- DECISIONS -

01 There is no provision in the Grand Lodge Statute 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)*

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)*

02 District Deputy Grand Exalted Rulers serve at the pleasure of the Grand Exalted Ruler and can

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

ANNOTATED STATUTES

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 4.490. The initiation ritual shall be exemplified by the officers of the Lodge, during the official visit of the District Deputy Grand Exalted Ruler. If the Lodge visited does not have a candidate awaiting initiation, the Exalted Ruler, or the District Deputy Grand Exalted Ruler shall select some Member to act as a candidate.

- OPINION -

01 It is a violation of 4.490 to have a ritualistic team (*Section 12.130*) exemplify the Initiation Ritual during the official visit of the District Deputy.

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.

Section 4.510. The Grand Exalted Ruler may appoint a Member in good standing as a Special Representative.

The Duties of the Special Representative shall be set forth in the Executive Order. The Special Representative shall receive the actual necessary traveling and subsistence expenses incurred by him in performing his special services.

— 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*. Subordinate 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.
- 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 -

ANNOTATED STATUTES

01 The per capita tax 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 in not material.

02 A Lodge cannot exempt any Member from payment of dues and assessments levied by the Grand Lodge.

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

- a.** General Fund
- b.** National Home 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 Order, except the Emergency Charity Fund, National Home 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, the Grand Treasurer, 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 and until the expenditure has been approved by the Approving Member of the Board of Grand Trustees, except for the purpose of purchasing, selling, granting, leasing and encumbering real and personal property of the Order as provided under Section 4.220. A proper voucher for each expenditure shall be prepared by the Grand Secretary and a record of the same made by him. Checks drawn against said Funds of the Order may be signed by the Grand Exalted Ruler, the Grand Secretary or the Grand Treasurer and shall be valid and effective when signed by any two of those Officers. 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 therefor signed by either the Grand Secretary, Grand Treasurer or Grand Exalted Ruler.

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.

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The Board may, by 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, the maintenance of the Elks National Home and the use of the Elks National Foundation Trustees, so that authorized payments may be made without delay.

— CHAPTER 6 — ELKS NATIONAL HOME

Section 6.010. The Elks National Home and Retirement Center shall be owned and operated by a separate non-stock, non-profit Virginia Corporation to be organized by the Board of Grand Trustees who are authorized to prepare and file articles of incorporation in a form consistent with applicable Federal and State laws. The Benevolent and Protective Order of Elks of the United States of America shall be the sole member of the Corporation. The Board of Directors of the Corporation shall consist of the duly elected and installed Grand Trustees of the Order, who shall have the authority to act in all corporate matters to the full extent allowed by applicable laws. All assets and liabilities shown on the most recently audited financial statements and Form 990 of the Elks National Home, with changes in the ordinary course of business to the date of incorporation, shall be transferred to an vested in the Corporation,.

The Board of Directors shall have supervision and control of the Elks National Home, engage a resident Executive Director and other necessary employees, fix their compensation and adopt rules and regulations for its management, which shall be issued in pamphlet form. It shall designate one of its members as the Home Member to exercise immediate supervision thereof and he shall visit the Home at least once every ninety (90) days and report all actions on his part to the Board for its ratification.

The Executive Director before entering upon the discharge of his duties shall furnish a surety bond approved by the Chairman of the Board of Directors.

Section 6.020. The Home shall be maintained for qualified Members of the Order and shall not be converted into an infirmary or hospital, except as the temporary illness of the residents may require.

ANNOTATED STATUTES

Section 6.030. An applicant for admission to the Home must have been in good standing in the Order for a period of five (5) consecutive years immediately prior to filing his application. The Board of Directors may, by unanimous vote, waive this requirement.

Section 6.040. Each applicant for admission to the Home must apply in writing on forms furnished by the Executive Director of the Home and the application shall include a certificate from a duly qualified physician setting forth the applicant's physical condition. The applicant shall execute the papers and documents necessary to enable the Board of Directors to determine if the applicant has sufficient assets or income to pay for his maintenance, expenses and burial.

. OPINION .

01 The Lodge of affiliation of a Member applying for admission to the Elks National Home should make a thorough investigation. Other Lodges with jurisdiction over the present or former residences of the applicant should be asked to

assist if it is deemed advisable. However, the responsibility for the facts set forth cannot be shifted to the assisting Lodges.

Section 6.050 (*Removed at GL Session in Orlando, FL 2006*)

Section 6.060. Subject to the ratification by the Board of Directors, the Home Member, together with another member of the Board of Directors and the Executive Director, shall accept or reject all applications. Said members and Executive Director may cause a supplementary physical examination to be made and may require further proof of eligibility.

Section 6.070. Any Member of the Order in good standing may avail himself of the privilege of the Home as a visitor at a rate and under conditions fixed by the Board of Directors. All monies derived from this source shall be credited to the budget of the Home and used to reduce the operating cost.

Section 6.080. If money or property, real or personal, is assigned or set over to the Board of Directors by a resident of the Home, the same shall be held by the Board in Trust for the resident. If after lawfully applying all or any portion thereof toward the maintenance, expense or burial of the resident any part thereof remains unexpended, the same shall be paid over as the deceased resident has legally directed, or it shall be distributed under the applicable law.

Should a Member terminate his residence at the Home, any of his funds held by the Board after the payment of maintenance, expenses or other charges shall be returned to him.

The Board is hereby vested with the necessary power to carry out the provisions of this Section.

Section 6.090. Any funds or property collected, raised or contributed by Members or Lodges of the Order or from any other source in connection with the Elks National Home, are hereby appropriated for the purposes for which they are so collected, raised or contributed.

Section 6.100. The Corporation shall pay the construction, maintenance and operation costs of the Home.

— CHAPTER 7 — GRAND FORUM

ANNOTATED STATUTES

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 Subordinate Forum verdict by the Grand Exalted Ruler. (*Section 8.230 c*)
- c.** Appellate jurisdiction over decisions of the Subordinate 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 12.130, 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, however, this should be done if so 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.*)

- 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.*)

05 Original jurisdiction of Grand Forum includes controversies or actions between a Member of the Order and a Subordinate Lodge, except as they relate to certain civil contracts. 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.*)

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.*)

06 While the Grand Forum has and may exercise jurisdiction to determine a controversy between a Member of the Order and a Subordinate Lodge which involves only a Member's claim as a creditor of the Lodge for services rendered under a civil contract with the Lodge, the jurisdiction of the Grand Forum is neither exclusive nor conclusive upon the plaintiff. (*Grand Forum, Case No. 486, 1962.*)

03 The Grand Forum shall issue a mandamus to compel an Exalted Ruler to select and assemble a Subordinate Forum in accordance with the Laws of the Order. (*Grand Forum, 1926.*)

04 The Grand Forum does not have jurisdiction over actions or controversies arising out of civil contracts unrelated to membership in the order. (*Grand Forum, 1939.*)

07 Subordinate Forums have original jurisdiction in all matters involving charges against a

ANNOTATED STATUTES

Member of a Subordinate Lodge and the Grand Forum has only appellate jurisdiction from the Subordinate Forum case. (*Grand Forum, 1971*)

08 The Grand Forum, after careful deliberation and study of Grand Lodge Statute 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 Subordinate Lodges and that such questions must be submitted to the

Grand Exalted Ruler. (*Grand Forum, Case No. 576, 1976*)

09 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*)

10 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 acknowledgement 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 Order:

- 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, 9.100 and 9.160.
- b.** The adverse party to the motion shall have fifteen (15) days after service of the motion to file an answer.
- 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 subject 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.

ANNOTATED STATUTES

- 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:

- a. A supporting brief shall be attached to the motion.
- b. An answer shall be filed within ten (10) days after receipt of the motion.
- c. 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.

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 check or money order in the amount of five hundred dollars (\$500) shall be attached to the notice of appeal as a deposit to cover the cost of the transcription. Any refund of the deposit due will be promptly made by the Grand Secretary upon receipt of the decision of the Grand Forum.

- OPINION -

ANNOTATED STATUTES

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, 1985*)

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 Subordinate 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.
- 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 Subordinate Forum, the verdict will not be set aside as being against the preponderance of the evidence.

- DECISIONS -

01 The failure of the Subordinate 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 Subordinate 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 Subordinate Forum, the Grand Forum may modify the judgment of the Subordinate Forum by ordering a proper judgment. (*Grand Forum, 1937*)

03 Grand Forum is empowered to reverse a Subordinate 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 Subordinate 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, 1954*)

05 Where a verdict of guilty is rendered by a Subordinate 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, 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 Subordinate Forum. (*Grand Forum, 1968*)

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 Subordinate Forum must be raised before the

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commencement of the trial and the taking of any testimony. Further, any complaint based upon the failure of a Subordinate Forum to subpoena witnesses must be made before the conclusion of the trial and the submission of the case for decision. (*Grand Forum, 1974*)

08 Objections to the appointment of the Subordinate 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, 1989*)

09 The Grand Forum is fully warranted in reversing a conviction by a Subordinate 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 Subordinate 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 Subordinate 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 Subordinate 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 Subordinate Lodge, in the meantime, from commencing proceedings before the Subordinate Forum to expel such Member from the Order. (*Grand Forum, 1963*)

02 Where no stay of execution has been granted by the Grand Forum of the judgment of the Subordinate 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 Subordinate 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 Subordinate 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.

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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.

— CHAPTER 8 — SUBORDINATE FORUM

(See also *SUBORDINATE FORUM PROCESS GUIDLINE, Appendix III.*)

Section 8.010. A Subordinate 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 Subordinate Forum shall decide all cases and prescribe the penalty.

The Subordinate 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 Subordinate Forum. A single action by a Member may result in complaints to both the House Committee and the Subordinate Forum and this will not constitute double jeopardy.

02 Suspension from Lodge membership for a period of time may only be done by the Subordinate 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 A complaint cannot be withdrawn by the accuser, dismissed by a Lodge Officer of the Lodge. This power is solely that of the Subordinate Forum.

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

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

- DECISION -

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

02 A Presiding Justice of the Subordinate 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

ANNOTATED STATUTES

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 Subordinate Forum related to bias of the Presiding Justice and promises by the Accuser. (*Grand Forum, 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 It is mandatory under the Statutes 8.010 et seq., that upon the filing of a complaint the procedures outlined in Chapter 8 must be followed, and a Subordinate Forum must be chosen as a part of the proceedings, and the appointing of the Presiding Justice without a selection of the Subordinate Forum is a violation of procedure as set forth in Chapter 8. (*Grand Forum, Case No. 861, 1994*)

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

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, 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.
- 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 Subordinate 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 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. The statement will be signed by the Mediator, the Accused and the Accuser.
- f.** The time for mediation may be continued, as necessary, by the Mediator but only with the consent of the Accused and Accuser.
- 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

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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 "E" for Form of Notice of Intent to File Complaint, and Exhibit "F" for Mediation Statement.)

- OPINION -

01 A Notice of Intent cannot be filed by the Accused against the Accuser while the first action is pending

- 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 Subordinate Forum is mandatory, and a failure to comply will require a remand, 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.)*

Section 8.020. When a complaint is filed with the Secretary, he shall serve a copy thereof upon the Accused; 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 the complaint with the Secretary of Presiding Justice. Only a Member in good standing may file a complaint.

A check or money order in the amount of \$100.00 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 Subordinate 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.

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- OPINION -

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 be filed and signed by several Accusers. 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, 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, 1947*)

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."

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 "A."

- 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 Subordinate 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 -

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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, 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, 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, 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 Subordinate Forum. (*Grand Forum, 1968*)

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*)

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

- a.** Under the order of "New Business," the Subordinate 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. The Secretary shall record the names so drawn 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 Subordinate Forum, in which case the Secretary shall draw additional names from the Box until sufficient names are drawn 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

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- the Subordinate Forum. The Secretary shall immediately notify the members of their appointment.
- e.** Members appointed to the Subordinate Forum shall serve unless excused for cause by the Presiding Justice.
 - f.** Any vacancy occurring in a Subordinate 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 Subordinate Forum, ten additional names shall be drawn. 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.
 - h.** No challenge shall be allowed by reason of any informality in procedure in preparing the Subordinate Forum Box or in drawing the names therefrom.
 - i.** After the appointment of the Subordinate Forum, all names drawn from the Subordinate 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 Subordinate 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 Subordinate Forum.

02 The legality of the appointment of the Subordinate 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 Subordinate Forum has failed to act. If the Subordinate Forum continues its non-performance, 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 Subordinate Forum who refuses to perform his duty.

04 Unless there is strict compliance with this Section in the formation of the Subordinate 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 Subordinate Forum be selected.

- DECISIONS -

01 Where the minutes of a Lodge Meeting fail to indicate that procedures for the appointment of a Subordinate 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 Subordinate Forum and remand the matter for a new trial. (*Grand Forum, 1985*)

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

03 Objections to the appointment of the Subordinate 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 Subordinate Forum. Failure to comply requires that any actions of such improperly selected panel be rendered void. (*Grand Forum, Case No. 1009, 2001*)

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Section 8.050. 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 Subordinate Forum. The members of the Subordinate 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 Subordinate 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.

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 Rule to appeal the decision pursuant to the Laws of the Order.

- 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, 1929 and 1931*)

03 The Presiding Justice of a Subordinate Forum has the right to continue, for good reason, proceeding before the Subordinate Forum. (*Grand Forum, 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 Subordinate Forum" fails to comply with the Statute. (*Grand Forum, 1968*)

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, 1968*)

06 Action of a Presiding Justice of a Subordinate 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 week-end and tend to deprive an Accused of reasonable time within which to prepare his defense. (*Grand Forum, 1968*)

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 Subordinate 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*)

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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.

- DECISIONS -

01 Objection to the form of allegations of a complaint must be made by 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 Subordinate 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. 224, 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 by reasonable and fair intendment be implied from them), the complaint fails to state a cause of actions. (*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*)

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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*)

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.

If the motions provided 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 Subordinate 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 or make more specific was properly sustained. (*Grand Forum, 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 Subordinate Forum. (*Grand Forum, 1935*) 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

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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 Subordinate Forum. (*Grand Forum, Case No. 292, 1925*)

05 The power to dismiss a complaint is vested in the Subordinate Forum and is, so far as the Subordinate Lodge is concerned, vested only in the Subordinate Forum. (*Grand Forum, 1926*)

06 Failure to allege that charges are filed under the Obligation of the Order may be cured by amendment. (*Grand Forum, 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, 1932*)

08 The hearing on a Motion to Dismiss or make more specific is the province solely of the Presiding Justice, and the entire Subordinate 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 Subordinate Lodge. (*Grand Forum, Case No. 408, 1944*)

09 A Motion to Dismiss or 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 Subordinate 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, 1969*)

12 It is mandatory under the Statutes 8.010 et seq., that upon the filing of a complaint the procedures outlined in Chapter 8 must be followed, and a Subordinate Forum must be chosen as a part of the proceedings, and the appointing of the Presiding Justice without a selection of the Subordinate Forum is a violation of procedure as set forth in Chapter 8. (*Grand Forum, Case No. 861, 1994*)

13 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, 1982*)

14 The Presiding Justice of a Subordinate 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, 1958*)

15 It is error for a Presiding Justice of the Subordinate 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 Subordinate Forum. (*Grand Forum, 1989*)

16 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*)

17 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*)

18 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

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evidentiary nature. (*Grand Forum, Case No.944-E, 1998*)

19 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*)

Section 8.080. If the Accused's plea is not guilty, the Presiding Justice shall fix a date for trial of the case not less than five and not more that ten days after the plea is filed and shall give written notice to the parties at least three days prior thereto. When no answer is filed, a plea of not guilty will be entered for the Accused and the Presiding Justice shall set a date for trial of the case not less than five nor more than ten days after the required written notice.

If there is a plea of guilty, the Presiding Justice shall fix a time within five days when testimony will be taken to determine the penalty with oral notice to the parties at the time the guilty plea is entered.

- 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.*)

- DECISION -

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

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, 1988*)

02 An Accused is entitled to be present at all stages of a hearing or trial. His failure to

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 the trial or may cause a recording device to be used. If the decision of the Subordinate 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 the jurisdiction of the Lodge. Subpoenas must be issued by the Presiding Justice and shall be personally served upon a witness. Any Member not a part to the case may serve a subpoena. Willful disobedience by a Member of any order or process issued by the

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Presiding Justice or Subordinate Forum shall constitute a contempt of the Subordinate Forum punishable, at the discretion of the Subordinate Forum, by a suspension for not more than three months.

- 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 expenses 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.

- 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 Subordinate 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 Subordinate 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 Subordinate 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.*)

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.

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- 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 Subordinate Forum. (*Grand Forum, 1928*)

04 Where one continuance is granted the Accused, it is not an abuse of discretion to refuse a further continuance. (*Grand Forum, 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 Subordinate Forum. Member then pleaded double jeopardy and res adjudicata, which pleas were overruled, and he was found guilty. Upon appeal, Subordinate Forum was sustained by Grand Forum, which held that House Committee action was administrative and action of Subordinate Forum was judicial. There must be a prior conviction or acquittal by a court of competent jurisdiction before such plea is effective. (*Grand Forum, 1951*)

06 An Accuser should not participate in any way in the proceedings before the Subordinate Forum except as a witness. (*Grand Forum, 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 Subordinate 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, 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, 1978 and Case No. 691, 1985*)

10 Elks in good standing should not be refused admittance to Subordinate Forum proceedings, except that the Presiding Justice may exclude Elks who are witnesses.

11 It is not a violation of the Constitution or Statutes for the accuser to also be the Prosecutor. (*Grand Forum, Case No. 817, 1992*)

12 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*)

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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 Appendix "D" to Subordinate 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 Subordinate Forum and to order a new trial when it is clearly established that the witnesses testifying before the Subordinate Forum did not testify under oath, and when it is further discovered that the Subordinate Forum made to transcript or other

record of the trial proceedings. (*Grand Forum, 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, 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 Subordinate 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.
- 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.

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- 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 Subordinate Forum. The accused is entitled to a new trial before a Subordinate Forum of the Lodge. (*Grand Forum, Case No. 249, 1922*)

Section 8.130. All members of the Subordinate Forum must be present during the trial. The Subordinate 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.

- OPINIONS -

01 The Presiding Justice must judge the admissibility of evidence by ordinary legal standard 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*)

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, 1988*)

02 Notwithstanding the discretion given to a Subordinate 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 mere opinions and speculations of the witnesses. The evidence must be competent as judged by ordinary legal standards. (*Grand Forum, Case No. 260, 1923*)

05 When a Subordinate Forum trial has been established and the members of the Subordinate 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 Subordinate Forum and it is improper to dismiss the complaint filed against the Accused because of the failure of Subordinate Forum members to attend the trial. (*Grand Forum, Case No.883, 1995*)

03 Evidence received by the Subordinate Forum should be material and relevant to the specific charge or charges contained in the Complaint. (*Grand Forum, 1974*) (*See 8.140, Decision 08.*)

Section 8.140. Upon conclusion of the testimony, the Subordinate 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 Subordinate 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 Subordinate Forum. The decision shall be signed by the Presiding Justice, reported to and entered in the minutes of the Lodge by

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the Secretary at the first regular Lodge meeting after the conclusion of the trial. The report of the decision and sentence fixed by the Subordinate Forum shall constitute the pronouncement of sentence. All reasonable costs and expenses incurred by the Lodge in connection with the Subordinate Forum shall be assessed to the non-prevailing party, at the discretion of the Presiding Justice.

- OPINIONS -

01 The decision of the Subordinate 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 Subordinate Forum the Presiding Justice is without authority to consider a motion for a retrial.

03 After the announcement of a decision by the Subordinate Forum at a regular Lodge meeting, its decision cannot be overturned by the Subordinate Forum, the Exalted Ruler or the Lodge and no member of the Subordinate 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 Subordinate 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 Subordinate 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 The burden of proof is upon the Accuser, and where the charge is not supported by competent evidence, it is error for the Subordinate Forum to find the Accused guilty.

07 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.

08 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 Subordinate 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, 1924 and 1989*)

02 Failure of the Secretary to promptly enter in the minutes of the Lodge the judgment and sentence of the Subordinate Forum is not reversible error where it does not affect some substantial right of the defendant. (*Grand Forum, 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 Subordinate Forum, after a trial duly and regularly had, of expulsion from the Order is proper. (*Grand Forum, 1926*)

04 Where a Member is found guilty and sentenced to six month's suspension, the Subordinate Forum has no power to suspend such sentence "due to good behavior of the Accused." (*Grand Forum, 1943*)

05 Where a single charge is filed against a member in the Subordinate Forum he can be

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found guilty or innocent of one charge only and punished accordingly. The specification of certain acts within the charge does not constitute separate counts and it is error to find separately on each specification and suspend the Member on each for consecutive terms. The Subordinate 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, 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, 1965*)

07 Error in finding guilty as to one specification, cannot justify reversal as to that count if substantial evidence supports a finding of guilt as to other specifications alleged under said count. (*Grand Forum, 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, 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 Subordinate Forum to find the Accused guilty. (*Grand Forum, 1934*)

11 A Subordinate Forum is without jurisdiction to suspend any sentence imposed by it. (*Grand Forum, 1943*)

12 The burden of proof of a charge against a Member of a Subordinate Lodge requires proof

of such charge by clear and convincing evidence. (*Grand Forum, 1957*)

13 The Presiding Justice of a Subordinate Forum is a member of the Subordinate Forum, and at the conclusion of the testimony at a trial the entire Subordinate 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, 1987 & 1988*)

14 The report on the Lodge floor at a regular meeting of the sentence imposed by a Subordinate Forum constitutes the pronouncement of sentence and becomes its effective date. (*Grand Forum, 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, 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, 1988*)

17 A conviction in a Subordinate Forum cannot stand when based solely upon hearsay testimony. (*Grand Forum, Case No. 783, 1990*)

18 The Forums of the Order are not authorized to order sentences to run consecutively. (*Grand Forum, Case No. 823, 1992*)

19 When a Subordinate Forum trial has been established and the members of the Subordinate 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 Subordinate Forum and it is improper to dismiss the complaint filed against the Accused because of the failure of Subordinate Forum members to attend the trial. (*Grand Forum, Case No. 883, 1995*)

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

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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 Subordinate Forum, the members of the Subordinate Forum shall stand discharged from all further service in the case. If upon appeal, the judgment of the Subordinate Forum is reversed and a new trial is ordered by the Grand Forum, a new Subordinate Forum shall be appointed in accordance with the provisions of Section 8.040. No member of the preceding Subordinate Forum, except the Presiding Justice, shall be eligible for appointment on the new Subordinate Forum.

Section 8.170. If the Accused is acquitted by the Subordinate 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 Subordinate 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 Subordinate Forum. If not sustained the Officer is restored to all rights and privileges of his office.

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.

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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 Subordinate Lodge Officer until final determination of the case, such Officer cannot be suspended under Section 8.180 by action of the Subordinate Lodge. Whether the District Deputy should act is a matter of sound and reasonable discretion on his part. (*Grand Forum, 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, 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 non-payment of dues under Section 14.160.

- 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 Elk Lodge during his period of suspension. (*Grand Forum, 1988*)

Section 8.200. The Secretary of the Lodge shall act as clerk of the Subordinate 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.

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- OPINION -

01 The Secretary, as clerk of the Subordinate 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, 1982*)
(*See 8.050, Decisions 05 and 06.*)

Section 8.210. Whenever the Secretary or member of the Board of Trustees is the Accuser or the Accused, 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 Subordinate Forum in the particular case.

- OPINION -

01 The integrity of the Subordinate Forum box is not impeached if the Secretary or Trustees are 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 disqualification of the Exalted Ruler and Secretary from participating in Subordinate Forum procedures when they are interested parties in a case is mandatory

under the provisions of Section 8.210. (*Grand Forum, Case No. 512, 1965*)
(*See 8.030, 8.180, Decisions 10 and 8.180, Decision 01.*)

APPEALS

Section 8.220. Appeals to the Grand Forum from decisions of the Subordinate 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*)

03 The Grand Lodge Statutes do not provide for any appeal by an Accuser except from an order of a Subordinate Forum dismissing a case upon Motion to Dismiss. (*Grand Forum, Case No. 181, 1918*)

02 The Grand Forum cannot entertain any appeal not authorized by Statute. (*Grand Forum, Case No. 181, 1918*)

ANNOTATED STATUTES

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 Subordinate Forum. (*Grand Forum, Case No. 208, 1920*)

06 The Esteemed Loyal Knight, unless he is the Accuser, cannot appeal from the action of a Subordinate 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 Subordinate Forum finding a defendant not guilty. From such a verdict and judgement 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 Subordinate 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, 1988 with dissenting opinions*)

10 The accuser has no right to appeal where the decision of the Subordinate 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 Subordinate 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, 1926 and 1934*)

12 Statutes referring to appeals are mandatory, and when one fails to comply with their

provisions the appeal may be dismissed. (*Grand Forum, 1935*)

13 Strict compliance with the provisions of Section 8.220-8.250 is necessary to entitle one to have his case reviewed by the Grand Forum. (*Grand Forum, 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, 1944*)

15 Where there is no trial or hearing before the Subordinate Forum, the Grand Forum is without jurisdiction in an appeal except where a complaint is dismissed after Presiding Justice of Subordinate Forum has sustained a Motion to Dismiss. (*Grand Forum, 1954*)

16 Where no briefs have been filed and no appearances have been made by any of the parties, the appeal to the Grand Forum must be dismissed. (*Grand Forum, 1973*)

17 Where appellant appears before the Grand Forum and withdraws his appeal, the decision and judgment of the Subordinate Forum will be made final. (*Grand Forum, 1973*)

18 The Grand Exalted Ruler has the right of appeal to the Grand Forum notwithstanding acquittal of the Accused by the Subordinate Forum. (*Grand Forum, 1983*)
(*See 8.240, Decision 04.*)

19 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.

20 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 Subordinate 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.

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- Section 8.230.** The notice of appeal shall be sent to the Secretary of the Lodge and the Grand Lodge by:
- a.** A Member found guilty within thirty days (30) 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 Subordinate Forum but in no case after 240 days from the date the judgment was entered upon the minutes of the Lodge.

The appellamt sja;; also serve a copy of the notice of appeal on the opposing party or parties in the Subordinate Forum proceedings. The time for appeals cannot be extended; failure to comply with the limitations will cause the appeal to be denied.

See Appendix "C-1" for Form of Appeal

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 cost of the transcription shall be paid by the accused. 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 Subordinate 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 Subordinate Forum. (*Grand Forum, 1929*)

02 The Grand Forum cannot pass upon an appeal without being furnished with a record of the Subordinate Forum proceedings. In such a case, membership privileges of the accused may be restored pending disposition of the appeal. (*Grand Forum, 1944*)

03 The Grand Forum cannot sustain conviction by the Subordinate Forum without Minutes or a

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transcript of testimony before a Subordinate Forum which are required to be transmitted to the Grand Secretary by the Secretary of the Subordinate Lodge when the accused gives notice of his appeal from the judgment of the Subordinate 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 conviction appellant to withdraw his appeal. (*Grand Forum, 1967*)

04 Accuser in a case before the Subordinate Forum has right of appeal where complaint is dismissed on Motion to Dismiss.

When inadequate record on appeal furnished by Subordinate 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 Subordinate 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 Subordinate Forum decision and remand for further proceedings according to law. (*Grand Forum, 1967*)

05 An appeal by a convicted appellant from the judgment of the Subordinate 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, 1967*)

06 The Grand Forum is fully warranted in reversing a conviction by the Subordinate 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, 1968*)

07 Duties of the Lodge Secretary and the Presiding Justice of the Subordinate 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, 1968*)

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 Subordinate Forum. (*Grand Forum, 1968*)

09 Appeal by the Grand Exalted Ruler of a not guilty verdict rendered by a Subordinate Forum necessitates a new trial upon the merits before the Grand Forum. (*Grand Forum, 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 Subordinate 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, 1988 with dissenting opinions*)

11 Upon an appeal by the Grand Exalted Ruler, from a judgment of a Subordinate 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*)

12 Upon an appeal by the Grand Exalted Ruler, from a judgment of a Subordinate 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 Subordinate 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 Subordinate Lodge or any Officer of the Lodge to destroy records of a Subordinate Forum case which has been appealed to the Grand Forum until the final disposition of the appeal has been made by the

ANNOTATED STATUTES

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 Subordinate Forum is uncontroverted, the Administrative Justice assigned to the matter may consider the case based on the record produced in the Subordinate Forum.
(*Grand Forum, Case No. 1040, 2003*)

- Section 8.250.** An appeal from the decision of the Subordinate Forum must use the following procedure:
- a.** The Appellant may serve upon the adverse party or his counsel and opening brief and appendix, if any, in support of the appeal, within thirty (30) 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 thirty days after receipt of the opening brief, the Appellee shall serve upon the Appellant or his counsel an answering brief.
 - c.** The Appellant shall have fifteen 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.

- DECISIONS -

01 Failure of Appellant on appeal to file and serve his brief within the time fixed by Order of Grand Forum constitutes abandonment of the appeal and warrants dismissal. (*Grand Forum, 1954*)

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, 1955*)

02 Appeal briefs should be timely served and filed. In unusual situations, the Grand Forum

— CHAPTER 9 — OFFENSES AND PENALTIES

Section 9.010. The Grand Exalted Ruler, by written Executive Order specifying the grounds, may remove any Lodge Officer 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 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 club privileges for a period not to exceed three years and/or ineligibility to hold a Lodge 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. See *Appendix "C-2" for Form of Appeal*

- OPINION -

ANNOTATED STATUTES

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 Subordinate 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, 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, 1950*)

03 Where an appeal is taken from an Order of Removal of a Subordinate Lodge Officer, the appeal is governed solely by Section 9.010, Laws of the Order. (*Grand Forum, 1950*)

04 The extent of authority of the Grand Forum on an appeal from an Order of Removal of a Subordinate 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, 1950*)

05 On an appeal from an Order of Removal of a Subordinate 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, 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, 1955*)

07 When the evidence shows that the Grand Exalted Ruler did not act arbitrarily, the Order of

Removal must be sustained. (*Grand Forum, 1955 and 1990*)

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, 1955*)

09 The action of the Secretary of a Lodge in (a) failing to furnish accurate and adequate information to the Board of Trustees 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, 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 Subordinate Lodge who conducts an initiation wherein persons ineligible to membership are purportedly initiated into his Lodge. (*Grand Forum, 1964*)

11 Appeal from Order of Grand Exalted Ruler removing a Subordinate 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 Subordinate 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

ANNOTATED STATUTES

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, 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, 1968*)

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, 1971*)

14 An Executive Order of the Grand Exalted Ruler removing a Subordinate Lodge Officer allegedly guilty of neglect of duty of his office, and, of conduct injurious to his Lodge, or 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 1980 and 1982*)

15 An Executive Order of the Grand Exalted Ruler removing a Subordinate 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, 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, 1980*)

17 An Executive Order of the Grand Exalted Ruler removing a Subordinate Lodge Officer will be sustained on appeal where one or more of the allegations are proven. (*Grand Forum, 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, constitute conduct injurious to the Order. (*Grand Forum, 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 Subordinate 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, 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

ANNOTATED STATUTES

Officers of other Lodges are guilty of the same 955, 1999)
conduct. (*Grand Forum, Case No. 923, 1997; Case No.*

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 club privileges 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 club privileges for a period not to exceed three years and/or ineligibility to hold a Lodge 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.

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

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. *See Appendix "C-2" for Form of Appeal*

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. *See Appendix "C-2" for Form 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 Opinions 7 and 9 in Section 20, Article III.

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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 the 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 and 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. *See Appendix "C-2" for Form 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.

Section 9.060. A Member shall be expelled from the Order upon being found guilty by a Subordinate 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 of 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 the Communist Party, or advocating the overthrow of the Government 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.

ANNOTATED STATUTES

09 A Member who joins a communist part or concealed such membership on his application shall be expelled from the Order upon conviction by a Subordinate Forum.

10 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 Subordinate Forum. Charges may be filed by any Member of the Lodge, but until determined

by the Subordinate Forum such Member remains in good standing if his dues are paid.

11 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.

12 It is improper to drop a duly elected and initiated Member before a judgment of the Subordinate 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, 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, 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, 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, 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 Subordinate Forum. (*Grand Forum, 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 sufficient 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 Subordinate 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, 1929*)

ANNOTATED STATUTES

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, 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, 1934*)

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 Subordinate 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, 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, 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 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, 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, 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 Subordinate Forum review. (*Grand Forum, 1968*)

18 A misdemeanor involves moral turpitude where it involves conduct of a base, degrading and immoral nature. (*Grand Forum, 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, 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 Subordinate Forum shall provide for penalties as indicated, are:

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- a.** Willfully making an unjustifiable or untruthful charge against a Member. 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 Subordinate Forum. The conviction 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 (3) months nor more than two (2) years or expulsion.
- 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 (3) years.
- i.** Aiding or abetting an unaffiliated Elk in violating Section 14.190. 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.

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 of fraud.

"Conduct unbecoming an Elk" shall include personal conduct likely to bring reproach upon the Order and every willful violation of House or Club Rules.

· OPINIONS ·

ANNOTATED STATUTES

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 Subordinate 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.*

l. 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 fund raising activities 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 Subordinate Lodge Secretaries.

d. A "Twenty-Five-Year Club".

e. A "Gourmet Club" closed to general membership which holds meeting, 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 Opinion 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. A separate charitable corporation limited to receipt of contributions to support all charitable activities of the Lodge. A separate non-profit corporation for a single purpose such as a scholarship or a single charitable purpose would be permissible. However, if an attempt is made to set up charitable activities which are all-inclusive, then such a non-profit corporation would not be permissible.

k. Formation of a "Bucks Club" with an initiation of \$1 and dues of \$1 payable on the birthday of the member.

l. 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.

ANNOTATED STATUTES

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 forth-with 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 stationary 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 Subordinate 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 B.P.O.E. 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 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 A chorus, patrol and /or band bearing the name Elks must be operated and controlled by the Lodge's will and direction through such committee as the Lodge may designate. The finances must be controlled by the regular Officers and committees of the Lodge. Neither initiation or annual dues can be remitted by the members of the group.

16 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 Subordinate Forum the office would be vacated.

17 The defeat of a long-time 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.

18 It is not a violation of subsection (f) to solicit votes orally, by letter or printed matter and by telephone where no person can hear except the two parties to the conversation. See **3.090 Opinion 22.**

19 Conduct Unbecoming An Elk includes sexual harassment.

- DECISIONS -

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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. 4, 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*)

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, 1921*)

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

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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 Subordinate 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. 291, 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, 1928*)

ANNOTATED STATUTES

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, 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, 1930*)

33 Misappropriation of moneys and assets of a Lodge constitutes an offense. (*Grand Forum, 1931*)

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, 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, 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 obligation 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, 1949*)

37 Evidence showing an unprovoked and unwarranted assault upon a Lodge Officer while the Lodge is in session supports a finding by the Subordinate Forum that the Accused was guilty

of both a Violation of his Obligation and Conduct Unbecoming An Elk. (*Grand Forum, 1973*)

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 Subordinate 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, 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 Subordinate 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 Subordinate Forum trial in 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, 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, 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, 1955*)

42 The offense of a second conviction by a Subordinate Forum under Section 9.070.c. is a separate offense that must be alleged in a complaint and proved at trial. (*Grand Forum, 1986*)

ANNOTATED STATUTES

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, 1989*)

44 While charge 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

Subordinate Forum by the Accused. (*Grand Forum, 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 9.070h.1. of the Laws of the Order. (*Grand Forum, Case No. 1038, 2003*)

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 Subordinate 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 Elk Lodge during his period of suspension. (*Grand Forum, 1988*)

Section 9.090. Whenever it shall become known to any Member of the Order that another Member or an unaffiliated Elk has been finally convicted, entered a plea of guilty or nolo contendere of a misdemeanor involving moral turpitude, or a felony 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 the 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 (30) 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 Subordinate Forum.

Note: See Subordinate Forum Rules 2.5.1-2.5.4, page 159.

- OPINIONS -

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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.

02 A pardoned felon can only be reinstated in the Order under the provisions of Chapter 10.

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 misdemeanor involving moral turpitude.

04 A Member is not automatically expelled from the Order upon convictions mentioned in this Section, but must be proceeded against as outlined.

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.

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. There is no right to a hearing. 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 for membership with already-served prior felony convictions, see Opinion 14 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 Sub-section 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, 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

ANNOTATED STATUTES

the Order and is of itself proof of offense against the Order. (*Grand Forum, 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, Case 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, or not guilty or "nolo contendere." (*Grand Forum, 1965*)

07 Short form proceedings for expulsion of a Member convicted of a crime under Section 9.090 are only applicable if the defendant was a Member of the Order at the time of conviction.

Any concealing of a conviction by a candidate is grounds for a charge of violation of Section 9.060 and requires a full trial on the merits. (*1979*)

08 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 Subordinate Forum rules 2.5.1, 2.5.2, and 2.5.3, the questions before the Subordinate 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 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*)

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.

See Exhibit "C-2" for Form 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 a 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 ·

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01 It is not a violation for a Lodge to solicit its own Members to purchase life insurance designating the Lodge as beneficiary as a part of the building program, however, it cannot give its

membership list to an insurance company or solicit other Lodges.

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*)

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, 1965*)

03 By implication an editor of an Elk periodical is exempt from the provisions of Section 9.120,

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.

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 -

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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 Subordinate Forum should attempt to determine which violator was playing unfair, and complaint was dismissed. (*Grand Forum, 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 therefor 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.

See Exhibit "C-2" for Form 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.

02 The Grand Exalted Ruler may suspend the Charter of a Lodge with the concurrence of the Board of Grand trustees. As the facts warrant, he may appoint trustees, who shall operate the lodge in the place of Officers and Managing body, whose powers are suspended.

- 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 the Grand Exalted Ruler in issuing the 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, 1973*)

03 The taking of bankruptcy proceedings by a Lodge of the Order, with its consequent affect 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 the Executive Order revoking the Charter of such Lodge. (*Grand Forum, 1973*)

04 Where a Subordinate 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 Subordinate Lodge that the Grand Lodge has discriminated by not applying the rules, Laws and Constitutional provisions

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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 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*)

05 Where a Subordinate 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, 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 Subordinate 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 Subordinate 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, 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. 752, 1988*)

09 The decision of the Grand Exalted Ruler to revoke the charter of a Subordinate Lodge will not be reversed unless clearly wrong. (*Grand Forum, 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 power 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*)

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. 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 to receive, hold, conserve, manage, or sell the Lodge property, 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 Trustee, 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

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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 investments 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 be restricted to the sole purpose of paying expenses incurred in connection with the effort to form a new Lode or Lodes 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) 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, and 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.

NOTE: 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.

- 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,

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provided that a separate record be kept of the assets and income for each defunct Lodge.

- OPINIONS -

01 Upon revocation, suspension, or voluntary surrender of a charter, all Lodge assets must be surrendered to 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 by 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.

See also 16.030.

- DECISIONS -

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.

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.

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 base upon false statements made upon an application for membership, nor to constitutional qualifications for membership.

- OPINIONS -

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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 payment 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 Subordinate Forum when four

years have elapsed from the date of the first conviction. (*Grand Forum, 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 provision 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.

— 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 1.030. 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.

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

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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.

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 recommendation to the Grand Exalted Ruler. The Board of Pardon Commissioners shall deposit its records with the Grand Secretary within thirty (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

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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.

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

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- 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 its institution, 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.

Section 11.060. Whenever the Boards of Trustees by direction of two 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 he shall announce that a vote on the proposed consolidation shall be taken at a designated regular meeting not earlier than thirty 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 matter 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

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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 a 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.
(See 3.090, Opinion 21)

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 \$50 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.

— CHAPTER 12 — SUBORDINATE 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

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Esquire, a Chaplain, an Inner Guard, 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. Re-election 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 nonattendance at meetings after installation, and Section 12.010 covers failure to present oneself for installation.

05 The Chaplain, Inner Guard, Esquire and Organist 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.

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.** Be an ex-officio member of the Board of Trustees without vote.

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- OPINIONS -

01 The Exalted Ruler is an ex-officio member of the Board of Trustees, but cannot preside, vote or reverse the action of the Board.

02 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.

03 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 Subordinate Forum.

04 Appointments to committees are the sole right of an Exalted Ruler, he may request advice and assistance in the selections, but the Lodge cannot override his selections. He may remove any committeeman with or without cause.

05 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.

06 The Exalted Ruler cannot appoint a committee to handle all of the committee work of the Lodge.

07 An Exalted Ruler's power of appointment are confined strictly to Members of his own Lodge except the appointment of a Presiding Justice of the Subordinate Forum under Section 13.020.

08 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. The right cannot be changed by By-Law.

See also 9.070, Decision 10.

- DECISION -

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, 1927*)

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.

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.

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- c.** Assign a number to each Member which is shown on his membership card.
 - d.** Maintain a current mailing list for 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 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 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.
 - o.** Perform all duties required by the Subordinate Forum.
 - p.** Attend all District Deputy clinics unless excused for good cause.
- 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 salary set forth in the Lodge By-Laws. The Lodge may assign the Secretary other duties, establish hours of duty and employ personnel to assist him 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 Subordinate 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 Subordinate 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 A membership list is private and confidential. Membership lists may be inspected at reasonable times and places by Members of the Lodge, but shall not be copied by hand, mechanically, or electronically. If notice to Members is required by lodge Committeemen, said notice will be accomplished by the Lodge Secretary. (See also GLS 9.120)

04 The Lodge may authorize a Member to make a stenographic record which will supplement the Lodge minutes, but a Member without Lodge authority may not make a stenographic record of the 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 assign the Secretary's office to him.

06 While a Lodge Secretary may collect all mail for the Lodge, any mail addressed by name to

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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 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 other Lodge Officers. The salary is subject to Social Security taxes and can only be changed by By-Law amendment.

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 The Secretary is responsible to the Lodge for the performance of the duties of his Office. He is under the general supervision of the Lodge Officers and it is his duty to assist them in carrying out the Lodge program, so long as their instructions do not violate the Laws of the Order. However, the Lodge Officers cannot require the Secretary to keep his records in a way contrary to Lodge instructions, assign his constitutional duties to an assistant or require him to maintain specified hours.

14 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.*)

15 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.

16 A Lodge Secretary may not simultaneously hold the positions of Secretary and Club Manager. (See 12.160)

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, 1929*)

02 Misappropriation of moneys and assets of a Lodge by the Secretary constitutes an offense. (*Grand Forum, 1931*)

03 The ultimate determination of the office hours of a Lodge Secretary should be made by the Members of the Lodge. (*Grand Forum, 1961*)

04 Where the Secretary of a Subordinate 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, 1962*)

05 Where the Secretary of a Subordinate 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

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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, 1964*)

06 The Secretary of a Subordinate 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, 1964*)
See 9.010, Decision 09.

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*)

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 of Trustees without obtaining Lodge prior approval. The Payment shall be reported at the next Lodge meeting.
- 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 designated by the Treasurer to sign. The Trustee 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 \$1,000.00, 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.
(*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 By-Laws may provide for cosigners of checks with the Treasurer. Trustees 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 of Trustees for investment in accordance with By-Law provisions.

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-

ANNOTATED STATUTES

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 Trustees to approve Lodge bills and fill in the payee and amounts and then co-sign 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.)

- DECISION -

01 A Subordinate 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 established in accordance with the provisions of paragraph 6 of Section 16.020, 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. 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. 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 paper, books and stationary 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-Law of the Lodge.

The Board of Trustees 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 of Trustees 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

ANNOTATED STATUTES

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. *See also 13.040(k).*

. OPINIONS .

01 All actions of the Board of Trustees 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 Trustees its agents. If the Lodge wishes to provide that a special committee take over a function customarily performed by the Trustees, it may do so.

03 A Lodge may require the production and reading of the minutes of the meetings of the Board of Trustees.

04 The Lodge may adopt a By-Law establishing special funds supervised by the Board of Trustees or a special committee and specify the vote needed to divert any of the funds therein. Acts of the Lodge appropriating an expenditure for any purpose whether advisable or not is not reviewable by the Grand Exalted Ruler, any other Officer, board or tribunal, except as provided in Section 16.050.

05 The duties of the Board of Trustees 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. As Lodge Trustees they have control of Lodge property and supervise all attendant problems thereto.

06 If the Lodge does not specify investments, they are left to the sound discretion of the Trustees.

07 The Trustees 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.

08 It is irregular and a violation of the Laws of the Order for Lodge Trustees to set up their 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 of Trustees 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 Trustee.

10 The Board of Trustees 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 Lodge Trustees to execute necessary instruments, and one Trustee refuses to sign, the signatures of the remaining Trustees are sufficient, as they are merely agents carrying out the will of the Lodge. The Trustee 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 Trustees knowingly invest or misuse Lodge funds, they may be charged before the Subordinate Forum.

ANNOTATED STATUTES

14 Where the Trustees have 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 Trustees 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 of Trustees.

16 The Board of Trustees 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 of Trustees 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 of Trustees 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 of Trustees 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 of Trustees 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 Amendment of a budget presented to the Lodge does not require a re-submission of a new budget, as it might well be expected that the Lodge will make changes. The Lodge may instruct the Trustees or Budget Committee as to items to be included in the budget.

24 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.

25 A By-Law may require proposed expenditures to be submitted to the Board of Trustees for recommendation before submission to the Lodge.

26 Securing the Lodge premises is the responsibility of the Trustees, except that they shall accommodate required access by the Lodge Secretary and other Lodge-designated personnel.
(See 12.050, Opinion 10; 15.020, Opinion 08 and 17.060, Opinion 04.)

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, 1942*)

02 A Subordinate 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, 1957*)

03 All proposed expenditures of a Lodge, Home, Club or other facility, must be included in the annual budgets or approved by vote of Lodge. (*Grand Forum, 1969*)

04 A member of the Board of Trustees of a Subordinate 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, 1969*)
See 9.010, Decision 12.

ANNOTATED STATUTES

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 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 room.

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.

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 the duties required of him 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.

- 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 -

ANNOTATED STATUTES

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 Subordinate Lodge at its annual election must elect an Alternate Representative. (*Grand Forum, Case No. 254, 1924*)

Section 12.130. All Officers shall memorize the Opening and Closing and Initiatory rituals for their respective stations within 30 days after their installation. Failure to do so may require a forfeiture of office. Where an Officer fails to learn the Ritual, and upon the filing of a written complaint with the Lodge Secretary setting forth the specific facts constituting the alleged failure to memorize the Ritual, the Exalted Ruler, at the next regular meeting of the Lodge, shall set a hearing date for a vote to remove the Officer between two and eight weeks hence. The Secretary shall give written notice of the hearing date to the accused Officer and to all Members of the Lodge not less than ten **(10)** 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 hearing and defend against the charges. A two-thirds **(2/3)** vote of those voting at the meeting shall be required to remove the accused Officer.

When a complaint is against the Exalted Ruler, the Esteemed Leading Knith 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.

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 Opening and Closing of Lodge meetings and the Initiatory Ritual.

- DECISIONS -

01 A Statute (Section 12.130) requiring a majority vote of the Lodge requires a majority of

those present and abstentions are not considered negative votes. (*Grand Forum, Case No. 1016, 2002*)

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 officer is removed, such vacancy shall be filled as provided in Section 12.150 of the Grand Lodge Statutes.

ANNOTATED STATUTES

- OPINIONS -

01 An Officer arriving after roll call should be marked present.

definition of a valid excuse for an absence. See *12.010, Opinion 07.*

02 The reason for absence of an Officer should be noted in the minutes. There is no legal

See also Article III, Sec. 1, Opinion 02.

- DECISIONS -

01 When vacating the position of 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 written complaint with the Lodge Secretary setting forth the specific facts constituting the alleged immoral conduct, the abuses in Office, or dishonorable acts, the Exalted Ruler shall, at the next regular meeting of the Lodge, set 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.

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.

ANNOTATED STATUTES

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. 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*)

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 Statute 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 An Officer whose resignation has been accepted cannot recall the resignation, but may be a candidate for the vacancy created. However, a resignation may be reconsidered at the meeting where it is accepted. There would then be no vacancy.

02 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.

03 The proper procedure for an Officer desiring to resign is (a) to send a written resignation to

the Exalted Ruler or other Officer, who (b) brings it before the Lodge at its next regular meeting for acceptance. The Lodge then proceeds to fill the vacancy as outlined in this Section.

04 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.

05 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.

See 3.090, Opinion 24 and 12.010, Opinion 02.

Section 12.160. No Lodge Officer shall simultaneously occupy another position in the Lodge, whether as a paid employee or otherwise, when the relationship between the Lodge Office held and the other position occupied is such as to give rise to an apparent, potential or actual conflict of interest.

- OPINIONS -

01 It is not the intention of this Statute to eliminate the utilization of Officers and others as volunteers. Rather it is to protect a Lodge and

the Officers from "apparent, potential or actual" conflict of financial interest.

ANNOTATED STATUTES

02 If a Lodge Officer is a member of the House Committee or Governing Board, they should not be authorized to sign any checks, or disburse

monies unless there is in place a well-defined system of check and balances.

— CHAPTER 13 —
SUBORDINATE LODGE COMMITTEES

Section 13.010. The Exalted Ruler, Esteemed Leading, Loyal and Lecturing Knights, Secretary and Treasure shall constitute the Standing Relief Committee of the Lodge, which shall examine the merits of all cases suggesting the necessity of aid or relief.

· OPINION ·

01 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 Subordinate Forum, a Mediator from his or another Lodge and not less than three Members to each of the following committees: Auditing and Accounting, Membership, Community Activities, Lodge Activities, Youth Activities and Elks National Foundation. Special committees may be appointed for special purposes as the Lodge may direct. These committees shall have responsibilities set forth in the following Sections: Auditing and Accounting (*13.040*), Membership (*13.070, 13.080, 13.090, 13.100*), Community Activities (*13.150, and to plan community projects emphasizing the charitable works of the Order*), Lodge Activities (*13.030, 13.050, 13.060, 13.091, 13.110, 13.130, 13.140, 13.160*), Youth Activities (*13.041, 13.061, 13.170*) and Elks National Foundation (*13.120*).

· 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 Sanding Committee.

03 A By-Law prohibiting a Committeeman to succeed 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.

ANNOTATED STATUTES

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 Where Lodges do not belong to their State Association, they may conduct their Youth Activity or other programs with the Grand Lodge Committees. However, where the Grand Lodge refers its programs through the State

Association, which it almost always does, the State Association may by appropriate By-Law limit participation in its programs and the awards and trophies resulting therefrom to the member Lodges of such Association. State Associations are not required to furnish manpower, finances and rewards for non-members.

See 12.020, Opinion 05; and 12.070, Opinion 02; and 16.150, Opinion 01.

- DECISIONS -

01 The Presiding Justice of a Subordinate Lodge is appointed by and removable at the will of the Exalted Ruler. (*Grand Forum, 1965*)

02 A Presiding Justice of the Subordinate 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 Subordinate 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 Subordinate Forum. A Complaint against the Subordinate 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.

Subordinate Forums have original jurisdiction in all matters involving charges against a Member of a Subordinate Lodge and the Grand Forum has only appellate jurisdiction from the Subordinate Forum in such case. (*Grand Forum, 1967*)

04 Grand Lodge Statute 13.020 which requires the Exalted Ruler to appoint a Lawyer, if available, as the Presiding Justice of the Subordinate Forum, is directory, and not mandatory. (*Grand Forum, Case No. 846, 1993*)

05 The Exalted Ruler has the exclusive right to appoint all Lodge Committees, including a House Committee, designated under the 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*)

Section 13.030. The Americanism Committee is charged with implementing the patriotic activities planned by the Grand Lodge and cooperating with other local organizations in fostering patriotic community endeavors.

Section 13.040. The Auditing and Accounting Committee shall:

- a.** Engage an accountant with approval of the Lodge to prepare the Annual Financial Report (Audit, Review or Compilation) in accordance with the Grand Lodge Auditing, Accounting & Management Manual. The Annual Financial Report must include all books, records

ANNOTATED STATUTES

and activities of the Lodge, Home, Club, separate corporation and any other entity affiliated with the Lodge for the fiscal year ending March 31st. The accountant shall be one who is independent of the accounting and bookkeeping operations of the Lodge or any entity thereof, except as provided in paragraph *j*.

- b.* Deliver to the accountant the Annual Financial Report forms furnished by the Grand Secretary.
- c.* Receive from the accountant and deliver to the Lodge by June 15 the accountant's report which will include the required Annual Financial Report forms with budget comparison, and applicable Federal and State tax returns, complete for all entities of the Lodge.
- d.* Send one copy of the Annual Financial Report, prior to June 30, to the District Deputy Grand Exalted Ruler and the Area Member of the Grand Lodge Committee on Auditing & Accounting. Failure to timely submit the report may subject the Lodge to an immediate fine of one hundred (100) dollars and a subsequent fine of an additional one hundred (100) dollars each thirty (30) days thereafter, not to exceed five hundred (500) dollars. Payment of a fine does not relieve the Lodge of the duty to file the report and continued refusal will be considered Contumacy.
- e.* Secure a financial report of any entity affiliated with the Lodge, which has a fiscal year other than March 31, within sixty (60) days after the close of the fiscal year.
- f.* Require the use of the Uniform Chart of Accounts provided in Section 4.330.
- g.* Act on other matters of finance as the Lodge may direct.
- h.* The Members of the Committee shall continue with their duties until the Annual Financial Report is completed for the fiscal year in which appointed and reported to the Lodge and filed with the Grand Lodge as herein directed.
- i.* 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.
- j.* A Subordinate Lodge may apply to Grand Lodge for permission to prepare its own Annual Financial Report using in-Lodge personnel under the supervision of the Lodge Auditing & Accounting Committee. Minimum requirements for in-Lodge preparation of Annual Financial Report are:
 - 1. Lodge must make application under guidelines promulgated by Grand Lodge.
 - 2. Lodge application must be approved by Grand Lodge Area Sponsors via their Area Member of Grand Lodge Auditing & Accounting Committee.
 - 3. Lodge receiving written approval must use Grand Lodge Chart of Accounts in conjunction with number placement recommendations contained in the Grand Lodge Auditing, Accounting & Management Manual.
 - 4. 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 Grand Lodge Annual Financial Report. The same financial information used to prepare the Annual Financial Report must be independently used to prepare the applicable Federal and State Tax Returns.
- k.* No Lodge Secretary, Treasurer, Trustee, 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 The Chairman 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.

02 Neither the Governing Body of the Club facility nor the Board of Trustees is authorized to employ its own accountant. The audit of its records shall be performed by the accountant

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employed by the Auditing & Accounting Committee.

03 The Auditing & Accounting Committee is not responsible to the Board of Trustees and need not report to them.

04 A member of the Auditing & Accounting Committee has the right, at reasonable times, to examine the Lodge records and make copies thereof in connection with the audit.

Section 13.041. The Drug Awareness Committee is charged with implementing the Drug Awareness Program of the Lodge, the State Association and the Grand Lodge.

Section 13.050. The Flag Day Committee shall prepare and carry out all arrangements for "Flag Day Services" as required by the provisions of Section 2.030.

Section 13.060. The Government Relations Committee is charged with implementing the Government Relations Program of the Lodge, its State Association and the Grand Lodge.

Section 13.061. The Hoop Shoot Committee is charged with implementing the Hoop Shoot Program of the Lodge, the State Association and the Grand Lodge.

Section 13.070. The Membership Committee shall 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.

Section 13.080. The Membership Committee shall carefully examine into the character of all applicants for membership, verify their statements made in the application and report thereon at the next regular meeting of the Lodge. The Committee shall require that applicants personally appear before the committee and may require the proposer or proposers of an applicant to appear before the committee.

Section 13.090. The Membership Committee shall investigate and report on all delinquencies in Lodge dues and employ such means and methods as may be best adapted to prevent the dropping from the rolls of Members for non-payment of dues. They shall also endeavor to restore to membership former Members who have been suspended or dropped for non-payment of dues. The committee shall report at the first meeting in each month.

Section 13.091. The Lodge Activities Committee is charged with implementing the Lodge Activities program of the Lodge, its State Association and the Grand Lodge.

Section 13.100. The Membership Committee shall employ such means and methods, not contrary to the Laws of the Order, as may be best adapted to secure applications for membership in the Order and to increase the membership of the Lodge.

Section 13.110. The Memorial Day Committee shall make all arrangements for the observance of "Elks Memorial Day" and the execution thereof, as required by the provisions of Section 2.020.

Section 13.120. The Elks National Foundation Committee shall publicize the Elks National Foundation, promote its programs, activities and charities, encourage and solicit contributions and recognize all gifts made to the Foundation. The Committee shall have no jurisdiction over the scholarship contests or other activities sponsored by the Foundation Trustees.

Section 13.130. The National Veterans Service Committee shall implement the program of the Elks National Veterans Service Commission within the Lodge as may be requested by the Commission in the 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 as might be requested by our National Government in any

ANNOTATED STATUTES

emergency and to be available for cooperation in the event of disaster in any local area of the United States.

Section 13.140. The Public Relations Committee is charged with implementing the Public Relations Program of the Lodge, its State Association and the Grand Lodge.

Section 13.150. The Community Activities Committee shall have charge and supervision of all matters pertaining to Lodge activities of civic, social and community interest, except those allotted to other committees, and plan community projects emphasizing the charitable works of the Order.

- OPINIONS -

01 The Community Activities Committee, by direction of the Lodge, may establish an educational fund from which loans are made to deserving students to further their education under the procedures set forth in 12.060, Opinion 05.

Section 13.160. The Visiting Committee shall visit Members of the Lodge or other Members of the Order reported to be ill, and report at the first meeting after making a visitation.

Section 13.170. The Youth Activities Committee shall prepare, supervise and conduct programs for the youth of the community, and have charge, supervision and responsibility for all youth programs of the Lodge, and matters referred to the Lodge by its State Association and the Grand Lodge Youth Activities Committee.

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 of 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 counsel to all Lodge Officers and Committees, and shall have the following duties, subject to the limitations imposed by the Constitution and Laws 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.
- f.** To engage in and make recommendations in other activities which will promote the good of the Lodge and of the Order.

- OPINION -

01 There is no requirement that the Grand Lodge approve the Constitution and By-Laws of a Past Exalted Ruler's 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.

— CHAPTER 14 —
SUBORDINATE 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 directly or indirectly a Member of or in any way connected or affiliated with the Communist Party, or who believes in or advocates the overthrow of our Government by force.

A Lodge may give a small reward to any member securing applications for membership or reinstatement.

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 Membership 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 Membership 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. Each application shall, at the meeting at which it is read, be referred to the standing Membership Committee which, after completing its duties, shall report at the next regular Lodge meeting or as soon thereafter as practicable. The Secretary shall 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 will be taken upon such application.

After the report by the Membership Committee, or a majority thereof, and after a notice has been mailed, 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.

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. 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 from 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 report by the 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 Posting names of applicants on a Lodge bulletin board does not dispense with the requirement for notice to the Members.

11 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.

12 It is improper to delay the processing of an application for an unreasonable length of time. It should be handled expeditiously.

13 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 the he served as Exalted Ruler of one of our Lodges does not alter the situation.

14 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 07.

DECISIONS .

01 No Subordinate 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, 1964*)

02 When the Grand Exalted Ruler denies application for a 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 Subordinate Lodge must so notify the applicant and return his initiation fee. (*Grand Forum, 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.

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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 had 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, 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 was not directly or indirectly a member of or affiliated with the Communist Party and 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.

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.

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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.

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 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 base 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.

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- 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, 1959*)

03 A violation by an Officer of a Lodge of the secrecy of the ballot is grounds for removal from office. (*Grand Forum, 1961*)

04 No number or other means of identification should appear on a cast ballot. (*Grand Forum, 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, 1974*)

See 12.050, Decision 06.

See 14.010, Decision 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, 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.

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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.

election and initiation, is grounds for reconsideration under this Section.

02 The return of a check given as payment for the initiation fee for lack of funds, between

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.

- OPINIONS -

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 to

the Lodge 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.

- OPINION -

01 This Section applies only to new applicants for membership; Section 14.110 applies to Members seeking a Transfer Dimit.

ANNOTATED STATUTES

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 bonafide 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 Investigation Committee.

- OPINION -

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 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.

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, 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.

Upon receiving a Transfer Dimit the Member shall:

- a.** Within thirty (30) days apply for affiliation to the Lodge indicated in his request.

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- b.** 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.
- c.** 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 therefore 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 A dimit cannot be granted to a Member The affiliation fee to be fixed by each Lodge against whom charges of misconduct are pending. The Lodge should suspend action upon the application for dimit until final judgment on the pending charges.

03 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.

04 in its By-Laws must be specific in amount and uniform in application.

05 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

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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.

An unaffiliated Member shall be one who has; (1) been stricken from the rolls for non-payment of dues, (2) been suspended after due trial, (3) been issued an Absolute Dimit, or (4) been a Member of a Lodge whose Charter was suspended, surrendered or forfeited.

- 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.

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.

Section 14.130. A Member shall be termed an Elk. Subject to state and local laws, a Member in good standing shall have the same and equal privileges and immunities with every other Member of his Lodge, and every member in good standing in a Lodge is entitled to all rights and privileges of the Home or Club connected therewith, whether such Club or Home be incorporated or not, except as otherwise provided.

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. 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. Subordinate 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.

Home or Club and are not considered extraordinary facilities such as a golf course or a swimming pool where charges for the use thereof may be made.

02 A Lodge owning and operating a bar and restaurant facilities within its Club rooms cannot assess special dues to be paid by its Members for the privilege of using the facilities. The facilities are facilities ordinarily found in a Lodge

03 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

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to use the Club facilities or to attend meetings of the Lodge. *See 16.040, Opinion 08.*
See annotation 16.040-07.

04 A Member sentenced to suspension or expulsion must be denied the privileges of the Club during the period of his unaffiliation.

05 A Lodge may deny the privileges of its Club facility to all Elks except those in good standing upon its rolls.

06 All Lodge records must be open for inspection at all reasonable times by any Member in good standing. This includes membership lists. A Member is not entitled, as a matter of right, to copy the membership list for general or personal use outside the Order. It is a violation of the Laws of the Order to

"circularize" the membership using a list furnished by a Member.

07 A candidate for membership who has been elected but who has not been initiated has no right to the privileges of the Home or Club connected with the Lodge. If the House Rules so provide, he or she may be given a visitor's card.

08 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.

DECISION

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, 1939*)

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 unmarried widow or widower of a deceased Member.
- c.** A child or stepchild, under the age of twenty-one (21) of a Member or a deceased Member.

The card shall:

- a.** Be signed and sealed by the Lodge Secretary.
- b.** Be signed by the holder of the card.
- c.** Bear an expiration date the same as the expiration date on the membership card of the Member requesting the card.
- d.** Be the same color as membership cards for that year and they may be consecutively numbered.
- e.** Be supplied by the Grand Secretary.
- f.** 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 Subordinate 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

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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.

Section 14.150. A Member who has paid his dues Grand Lodge assessment per capita fees and assessments and State Association dues shall be entitled to a membership card bearing the seal of the Lodge, signed by the Secretary and 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 roll number of the Member, and a card number, which shall not be used on another card of that Lodge during that Lodge year. The color of the card shall not be the same in any two consecutive years. Upon the 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 less than five dollars (*\$5.00*) nor more than one half 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 mailing list of a Lodge which is kept in the files of the printer who does the printing for the Lodge is the property of the Lodge. The printer should be instructed that the mailing list cannot be used except upon written order signed by the Exalted Ruler or the Secretary of the Lodge. *See Section 9.120.*

02 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

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 Identification cards issued by or for the Auxiliary pertain only to the Auxiliary, not to the Lodge or Club, and entitle the card holders 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 any gender who become unaffiliated Elks may not visit any Lodge's Club, or other facilities, nor does Section 14.140 allow issuance to them of identification cards.

known in the theatrical profession may be shown in brackets.

03 The printing of a list of Lodge's Members and their address and distributing it to each Member does not conflict with our Laws if the printing is authorized by the Lodge. *See Section 9.120.*

04 Section 14.150 contemplates that the Secretary shall sign all membership cards. A typewritten signature is ineffective. The Secretary may use a facsimile signature.

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05 A Life Member cannot be relieved from the Obligation to pay per capita taxes and annual dues imposed by the Grand Lodge.

06 The fees and assessments for Life Members in a Lodge must be uniform regardless of how the Life Membership was created.

07 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

Section 14.160. A Member owing one year's dues to the Lodge shall be dropped from the rolls prior to April 1st without the vote of the Lodge thereon, provided that the delinquent Member has been given a written notice of the proposed action thereon not less than (30) days prior to April 1st by the Secretary of the Lodge. The notice shall be delivered in person or sent by first class mail, postage prepaid, addressed to such Member at his last known address; and provided further that the Secretary has reported the delinquency to the Lodge at a regular meeting at least (30) days prior to giving the written notice. The notice shall inform the delinquent Member that during the period of his delinquency he is not entitled to the privileges of membership and that in the event of his being dropped for non-payment of dues, he can be reinstated only in the manner provided by the Laws of the Order. The procedure for dropping Members from the rolls shall be undertaken annually at a meeting of the Lodge to be held during the month of March, but may be taken more often. It shall be the duty of the Secretary to record in the Minutes of the meeting, the names of the Members dropped. The effective date for dropping the Member shall be not later than March 31, provided the delinquent dues are not paid.

- OPINIONS -

01 In addition to the written notice required by this Section, it is permissible to give notice to those about to be dropped for non-payment of

dues in the Lodge bulletin or by posting on the bulletin board.

- DECISIONS -

01 To strike a member from the rolls for non-payment 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 upon a two-thirds majority vote of those present at a regular Lodge meeting, after thirty (30) days' notice in writing, delivered in person or sent by first-class mail, postage prepaid to his last known address. The notice shall inform the Member that during the period of his continued indebtedness to the Lodge or Club, that he is not entitled to the privileges of membership and that in the event of his being dropped from the rolls, he can only be reinstated by making payment of his indebtedness to the Lodge or Club, in addition to the reinstatement fee provided in the Lodge By-Laws. If the sums alleged to be due are disputed and a request for a hearing is made by the Accused within ten (10) days from the date of the notice, a hearing shall be held by the governing body of the Club within ten (10) days. The governing body shall determine the amount of indebtedness and the circumstances surrounding same, and a copy of the findings of the governing body of the Club shall be incorporated in the written motion to drop said Member from the rolls of the Lodge. 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

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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 non-payment 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, 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 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, 1988*)

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*)

Section 14.180. An unaffiliated Member whose name has been stricken from the Roll of Membership for nonpayment of dues, may on his application, if made within thirty (30) days thereafter, be reinstated as a Member in good standing in the Lodge upon majority vote thereof at the next regular meeting and 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 thirty (30) 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 thirty (30) days from the date of being stricken from the Roll of Membership for non-payment of dues, an unaffiliated Member, may be reinstated upon application being read at regular Lodge meeting, after being referred to the Membership 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 fixed by the By-Laws which shall not be less than fifteen (15) dollars, and the proportionate share of the current dues. However, a Lodge may, by By-Laws, establish a sixty (60) day consecutive period or a two (2) consecutive month period during the Lodge year in which any reinstatement fee otherwise required by this section is reduced to one (1) dollar, except the months of February, March, April and May.

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

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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 annotation 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 any gender who become unaffiliated Elks may not visit any Lodge's Club or other facilities, nor does Section 14.140 allow issuance to them of identification cards.

- 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

Elk 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.

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.

- DECISIONS -

01 Officers or members of a Lodge cannot establish a Club. A Club can be established

only by a Lodge. *(Grand Forum, Case No. 27-1/2, 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.

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 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.

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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.

- OPINIONS -

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 non-payment 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 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) consecutive years immediately preceding his election, not less than the last ten (10) years must have been with the current Lodge, and he has attained the age of not less than sixty-five (65); or
- b.** Paid in advance an amount at least equal 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 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 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.

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- 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 Grant 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 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.

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 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 Services 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 the 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 to the "distinguished services rendered Lodge or Order," and therefor should not be the basis for granting Honorary Life Memberships in the Order.

05 A Life or Honorary Member who has been dropped for nonpayment of dues regains the Life/Honorary Life status automatically upon

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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 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 pre-eminent among his fellows and thereby entitled to great honor and to special reward. (*Grand Forum, 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, 1947*)

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 shall be fixed by its By-Laws and shall not be less than twenty-five (25) dollars, provided that a Lodge By-Law may fix the initiation fee for an applicant making application prior to his twenty-sixth birthday at not less than ten (10) dollars. Members of the Order who sign the Charter list of a new Lodge shall not be required to pay any initiation fee whatsoever unless the initiation fee of the proposed new Lodge is greater than the initiation fee of the Lodge from which such Member of the Order shall dimit, in which case the Member shall pay to the new Lodge the difference in the initiation fee. A Lodge may, by appropriate By-Law, fix a graduated initiation fee based upon the age of the applicant.

A Lodge shall return the 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.

confirmation the applicant is entitled return of the initiation fee paid.

02 If a candidate is elected to membership and after reconsideration the Lodge votes against

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 semi-annually in advance on April 1st and October 1st. A Member may at his election pay one (1) 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 advancer of April 1st in any year. The annual dues shall be fixed by the By-

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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.

- 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. (*See 14.150, Opinion 06.*)

Section 14.310. A Lodge may in its By-Laws, provide for the remission of the dues of any Member who is sick or in distress, and may remit the dues of a member who is serving in a branch of the Armed Forces of the United States during a period of war in which the United States is engaged, or during a period when service is made compulsory by Act of Congress or the United States, or during a period of national emergency proclaimed by the President of the United States.

A Lodge may, by its By-Laws, provide for the waiver of the initiation fee and dues of any applicant who is a member of the Armed Forces on active duty and who meets the criteria stated in the preceding paragraph, and the Lodge may thereafter remit dues for those who continue to qualify under the preceding paragraph

- OPINIONS -

01 Dues of any Officer may not be remitted as a consideration for services rendered.

02 The power to remit 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 remission of a portion of his dues from the Lodge from which he is seeking a Transfer Dimit.

04 A Lodge cannot remit 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 by the Lodge. The amount which shall be paid may be any amount agreed upon not in excess of reasonable compensation for the services rendered

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— CHAPTER 15 —
SUBORDINATE 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, Treasurer and Tiler, 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.

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.

See annotations 12.010 Opinion 04, 12.070, Opinion 16 and 13.020, Opinion 03.

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).

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- f.* Community Activities.
- g.* Reports of Committees (by seniority).
- h.* Report of Membership 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.

- 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.**, **h** 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.

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 vote is required to overrule the decision of the Exalted Ruler.

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 moneys 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.

- OPINION -

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.

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.

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- OPINION -

01 The ballot on the 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 which must bear a different card number than the original.

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.

Section 15.070. Lodge shall meet in regular session at least semi-monthly but may meet tri-monthly or weekly as provided in the Lodge By-Laws. The Lodge By-Laws may designate any three months of the year, except the months of February, March and April, at which only one regular meeting is required to be held. The Grand Exalted Ruler or the District Deputy may grant a dispensation to omit a regular meeting except during the month of February. 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. No Lodge meeting shall be held out side the jurisdiction of the Lodge, without the prior written consent of the Grand Exalted Ruler.

- OPINIONS -

01 The District Deputy has no authority to set a different meeting date. He 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 holdings 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.

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. (*See "VOTING REQUIREMENTS GUIDE" in Appendix I.*)

— CHAPTER 16 —
SUBORDINATE LODGE OPERATIONS

Section 16.010. On or before May 1st of each year the Lodge Secretary shall furnish an Annual Report, furnished by the Grand Secretary, with membership and charity information requested as of March 31, the end of the Lodge and fiscal year.

This report shall be signed, sealed and transmitted to the Grand Secretary with payment in full of the per capita fee, in the format and manner prescribed by the Grand Secretary.

If a Lodge fails or refuses to transmit a timely Annual Report, it shall pay a fine of one hundred (**\$100**) dollars to the Grand Secretary. Failure to send the report 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 subordinate Lodge must pay Grand Lodge assessments on delinquent Members until they have been formally dropped from the rolls.

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 or Club 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

ANNOTATED STATUTES

may make provision for a Board 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 conferred upon the Board of Trustees by the Laws of the Order.

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.)

- OPINION -

01 Under this Section all Lodge meetings are "official" meetings of the corporation and any action regularly taken is legally effective and binding.

- 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. 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.

ANNOTATED STATUTES

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, 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.

(See Appendix 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 separate corporations, regardless of when organized are subject to the provisions of this Section, and subject to all 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.

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 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 less 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.)**
- 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.

ANNOTATED STATUTES

The supervising or managing body of the Club, social parlor or other facility shall have the power to suspend a Member from Club, social parlor or other facility privileges for a period not exceeding one (1) year, for violation of rules duly adopted 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 and served personally or by regular first-class mail after a hearing before the supervising or managing body.

An appeal to the Lodge may be taken by a Member suspended as herein before provided by serving a Notice of Appeal, 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. 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.

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 on or before 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.

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 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.

03 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.

04 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.

05 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

ANNOTATED STATUTES

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.

06 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.

07 The appointed House Committee not the Trustees operates the Club facility. The Trustees, 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.

08 Neither the Officers, Trustees, Governing Body nor any other representative or body, can enter into a contract with a union unless specifically so authorized by direct Lodge action.

09 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.

10 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 shall purchase all supplies does not control in this instance.

11 The Governing Body cannot delegate its authority to suspend a member from Club privileges.

12 If the House Rules do not set the hours during which the Club will be open, the Governing Body may set the hours.

13 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.

14 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 Subordinate Forum.

15 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.

16 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.

17 When the By-Laws 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.

18 For the purpose of this Section, and subject to state and local laws, a volunteer is not an employee.

19 A Suspension of Club privileges does not bar a Member from retaining his membership card and attending Lodge meetings.

20 The governing Body of the Club can exclude a non-Member from the Lodge premises for a violation of House Rules.

- 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, 1915 and Case No. 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*)

ANNOTATED STATUTES

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 16.040, 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, 1989*)

06 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*)

07 The Governing Body of the Lodge is required to strictly follow the provisions of Section 16.040, including the ten (10) day written notice required. (*Grand Forum, Case No 1035, 2003*)

08 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*)

09 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*)

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.

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The Board of Grand Trustees shall in no case issue a permit hereunder unless and until it has been furnished satisfactory evidence that:

- a.** 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.
- b.** The proposal read on the floor of the Lodge was mailed to each member of the Lodge at least ten (10) days prior to the date of the regular meeting at which it will be voted upon, and
- c.** That at the regular meeting the proposal was adopted by at least a favorable vote from two-thirds of the members present.
- d.** 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.

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 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.

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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 *i* 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 refurnishing 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 Elk 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.

Section 16.060. The proceedings of all meetings shall be characterized by true gentlemanly 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 on 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.

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.

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- OPINION -

01 Each Lodge is the judge of the restrictions it may desire to set for any social session as long as no Laws 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, 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.

- OPINION -

01 The lessee of Club rooms must comply with all provisions of our Constitution, Laws of the Order and By-Law of the Lodge.

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.

- OPINION -

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.

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.

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- 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 therefore.
- 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 emblem 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.

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 Subordinate 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 promotion

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 Elk 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.

ANNOTATED STATUTES

- OPINION -

01 Unless specifically provided for in the Lodge By-laws, the Members(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 provision 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 Lod

Section 1.160. No Members shall use, own or control any trademark 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 web site, unless specifically authorized to do so by either the Lodge or by the Grand Secretary.

If a Member has an unauthorized domain name or web site, that Member must either terminate the domain name or web site, or transfer the domain name or web site to the Lodge, if the Lodge wishes to acquire the domain name or web site.

If the Lodge elects to accept the domain name or web site, the Lodge shall reimburse the Member for the cost 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 (2/3) 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 Subordinate 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.

- OPINION -

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.

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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 on the Committee on Judiciary by May 15th preceding the annual Grand Lodge Session to which it is 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 resolutions to amend the Constitution and/or Laws of the Order to all Subordinate 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 Subordinate 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.

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.

See 4.370, Opinions 01 and 03.

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.

Section 17.060. Amendments or revisions by 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 eight (8) weeks thereafter. Notice setting forth the full proposed amendment or revision of 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 revision is to be voted upon. A majority vote of Members at the meeting shall be required for adoption.

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 using the latest form of By-Laws and rules of Order booklets prepared by the Grand Secretary, and House Rules in a form approved

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by the Lodge. The general revision shall incorporate all amendments adopted by the Lodge. A Lodge failing to comply with the provisions of this Section shall be guilty of contumacy.

- 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 presentation of the motion proposing the By-Law amendment. This notice should be in sufficient depth to clearly inform the members regarding the amendment.

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-Law.

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 Notice to the members may be by Lodge bulletin unless otherwise provided in the By-Laws. *See annotation 15.020, Opinion 04.*

10 When Grand Lodge acts in manner affecting Subordinate Lodges, then said action supersedes and overrides any contrary local By-Laws. **(1988)**

- 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, 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.

Section 17.080. *(Section 17.080, the content of which was originally enacted as part of the former Section 144 in 1973, stating temporary provisions in effect pending Supreme Court consideration of the right of associations to set membership requirements [see Sec. 14.010], was removed by Grand Lodge amendment in 1991 as null and void following the conclusion of the Court's adjudication.)*

— CHAPTER 18 — STATE ASSOCIATIONS

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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.

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 corresponding 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.

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.

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:

See 13.020, Opinion 08.

Section 18.030. Each State Association shall furnish to the Grand Secretary and the Chairman of the Committee on State Associations 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.

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- 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 or 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, recommendations or information. The advice, recommendations 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 Elk 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.

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 reports of the Grand Secretary and Grand Treasurer have been presented and referred; and said reports 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 the minutes and roll call of previous session as printed.
 - 4. Adoption of the reports of Grand Exalted Ruler, Grand Secretary, Grand treasurer and Board of Grand Trustees.
 - 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 rules of "Robert's Manual."
- XVI. All former Rules of Order of the Grand Lodge, inconsistent herewith, are hereby repealed.

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01. Where the Exalted Ruler declares a proposition carried, his decision stands unless promptly appealed from.

Such new motion must not be considered as a motion to reconsider the action taken at the previous session.

02. A motion was defeated at one session. At the next session a like motion was again made.

RULES GOVERNING THE GRAND FORUM

— PART 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 in application. Unless otherwise stated any rule may be relaxed or dispensed with by the Grand Forum if adherence to it would result in the 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 1:3-1 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 1:3-2 Verbatim Record of Proceedings All proceedings in open Forum shall be recorded or transcribed verbatim unless the Forum otherwise orders.

Rule 1:3-3 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 of 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 1:4 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, 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 1:5-1 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

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Saturday, Sunday, or legal holiday. In computing a period of time of less than 7 days, Saturday, Sunday, legal holidays shall be excluded.

Rule 1:5-2 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 1:5-3 Enlargement of Time Unless otherwise expressly provided by statute, rule or order of the Grand Forum, a period of time thereby fixed for the doing of an act may be enlarged before or after its expiration by order of the Grand Forum.

Rule 1:6-1 Caption; Name and Address of Party and Attorney; Format

- (a) Every paper to be filed shall contain a caption setting forth the title of the action, the case number except in the case of the first paper, 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 paper of 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 paper to be filed there shall be printed or typed the name of the party or attorney filing the paper, his residence or office address and telephone number.

Rule 1:6-2 Paragraphs Allegations of claim or defense shall be made in numbered paragraphs each limited as far as practicable to a single set of circumstances.

Rule 1:6-3 Signing Verification and Form All papers 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. Papers and pleadings need not be verified unless ex parte relief is sought thereon or Rule or Statute otherwise provides. The verification shall not repeat the allegations of the paper or pleadings by 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 1:7-1 Service of Papers and Briefs In all actions unless otherwise provided by Ruler, Statute or order of the Grand Forum, pleadings and papers 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 1:7-2 Manner of Service of Papers 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 competent member of his household; or by registered or certified mail return receipt requested to this last known address; or if the party fails or refuses to claim or to accept delivery, then by ordinary mail to his last known address; or if no address is known, by ordinary mail to the Clerk of the Forum.

Rule 1:7-3 Proof of Service Proof of service may be made by an acknowledgement 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. Where service has been made by registered or certified mail, the return receipt card shall be filed as part of the proof. Failure

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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.

Rule 1:7-4 Service By Mail; When Complete Service by mail of any paper referred to in G.F.R. 1:7-1 when authorized by Rule or order of the Forum, shall be complete upon mailing.

Rule 1:7-5 Filing All papers and briefs required to be served by G.E.R. [sic] 1:7-1 shall be filed with the Forum either before service or promptly thereafter unless otherwise provided. A paper or brief is filed with the Forum if the original is filed with the Clerk of the Forum who shall file all papers and briefs presented to him for filing. The Clerk shall notify the person filing if such papers or briefs do not conform to these Rules. If a paper 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 paper 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 1:7-6 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 transmitter [sic] shall be responsible for the cost of transmitting and receiving of the faxed material notwithstanding the outcome of the case involved. No more than two (2) 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 1:8-1 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 by Notice of Motion in writing unless the Forum permits it to be made orally. The motion shall state the time and place when it is to be presented to the Forum, 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 certified copies of all papers 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 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 1:8-2 Time; Service; Cross-Motions; Dispositions 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. The moving party may state in his Notice of Motion that he waives oral argument and

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consents to disposition on the papers. The motion shall be so disposed of unless the respondent in his answering papers requests oral argument or unless the Forum directs oral argument.

A Notice of Motion (*other than an ex parte motion*) shall be served and filed not longer than 15 days before the time specified for the return date unless otherwise provided by Statute or order of the Forum. If a motion is supported by affidavit, it shall be served and filed with the motion opposing affidavits and cross-motions shall be served and filed not longer than 8 days before the return date unless Statute or the Forum permits service at a later time. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not longer than 5 days before the return date unless the Forum otherwise orders.

All Motions, Briefs, Orders to Show Cause and Affidavits, shall be filed within the time prescribed, with the Clerk of the Forum, and opposing affidavits and cross-motions and replies shall be filed in the same manner.

Rule 1:8-3 Voluntary Dismissal An appeal may be dismissed at any time prior to trial, upon written motions 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 Supervising Justice shall enter an appropriate Order of Dismissal.

Rule 1:8-4 Involuntary Dismissal An appeal may be dismissed by the Supervising Justice, with the concurrence of at least two other justices, 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 1:8-5 Stipulation 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 of Facts and waiver of a formal hearing.

Rule 1:9-1 Trials; Opening & Closing; Objections; Exam of Witnesses; Trial Errors; Attorneys Before any evidence is offered at trial, the Accuser (**Appellant**) shall make an opening statement. If the Accused (Respondent) chooses to make an opening statement, he shall do so immediately thereafter. 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.

For the purpose of reserving questions for review or appeal relating to rulings or order 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 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.

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.

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Every party shall be entitled to be represented by counsel of his choice who shall be an Elk if reasonable available, otherwise counsel may be a non-Elk.

Rule 1:9-2 When it appears that an Unaffiliated Elk may be subject to expulsion from the Order pursuant to the provisions of Section 9.090, and the Lodge with which he was last affiliated is not in existence, the Grand Secretary shall thereupon obtain and file in his office the certified transcript of the final judgment or the entry of such pleas and sentence imposed. 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. The Grand Secretary shall report the final conviction or entry of the plea to the Chief Justice who at the expiration of thirty (30) days shall enter an order expelling the Member from the Order pursuant to the authority of Section 9.080. Should the person demand a hearing with thirty (30) days of the date of notice, the Chief Justice shall assign an Administrative Justice to hear the same and report to the full Grand Forum expeditiously.

Rule 1:10-1 Continuity The Forums of the Order shall be deemed always open for 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 1:10-2 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 1:10-3 Jurisdiction The Grand Forum shall have appellate jurisdiction over judgments rendered by Subordinate Forums and Lodges and original jurisdiction in all other matters.

Rule 1:10-4 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 1:11-1 Administrative Responsibility for Judicial Department; Quorum; Temporary Assignment The Chief Justice of the Grand Forum shall be responsible of 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 the Senior Justice serve temporarily as Acting Chief Justice.

Three (3) 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 in the Grand Forum.

The Clerk of the Grand Forum and the Clerk of the Subordinate 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.

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The Chief Justice shall report to the Grand Lodge at its annual session on the state of the Judicial Department of the Order.

Rule 1:11-2 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.

— PART 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 or Subordinate Forums as of Right in all cases involving its denovo and appellate jurisdiction as provided by Constitution and Statute of the Order.

(b) On Certification:

Appeals may be taken to the Grand Forum in cases pending in Subordinate 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 Subordinate Forums (1) when necessary to prevent irreparable injury; and (2) on certification by the Grand Forum to the Subordinate 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 Subordinate Forum, or, by a Subordinate 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 Subordinate Forum or the Subordinate Forum shall be taken within the time provided by Statute of the Order, or these Rules.

(b) Applications for leave of appeal from interlocutory orders, decisions or actions shall be made within ten (10) days after entry of such order or decision or notice of such action.

Rule 2:5-1 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. Notice shall be sent the Member as provided for in G.F.R. 1:9-2.

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Rule 2:5-2 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 2:5-3 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 Chief Justice.

Rule 2:5-4 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 Subordinate Forum.

Rule 2:5-5 Whenever an Affiliated Elk has been finally convicted, entered a plea of guilty or nolo contendere to a felony or a misdemeanor involving moral turpitude, such Member shall be proceeded against by the Presiding Justice of the Subordinate Lodge of which said Member is a Member. When such final conviction has been brought to the attention of the Lodge Secretary, it shall be the duty of the Lodge 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 same manner and form as provided in GFR 1:9-2.

Rule 2:5-6 Said Member, within the thirty (30) day period for an as stated in Sec. 9.090, Laws of the Order, file a written demand for a hearing before the Justice of the Subordinate Forum.

Rule 2:5-7 Upon the filing of such demand, the matter shall proceed before the Justice of the Subordinate Forum, and upon review by the Justice of the Subordinate Forum such action as is appropriate will be taken and an order consistent therewith will be entered by the Justice of the Subordinate Forum.

Rule 2:5-8 If said Member fails to file the demand for hearing, the Justice of the Subordinate Forum shall enter an order expelling the Member from the Order, which shall be entered in the records of the Lodge, and the same shall have the same force and effect as a Final Decision and Sentence of a Subordinate Forum.

Rule 2:5-9 In a hearing before a Justice of the Grand Forum or a Justice of a Subordinate Forum as provided herein, the questions before the Subordinate Forum or Grand 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.

Rule 2:6 Tolling of Time of 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 re-hearing 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.

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 Subordinate Forum or the Subordinate 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

GRAND FORUM RULES

Appeal may be in the form set forth in the Exhibits "C-1" and "C-2" of these Rules. The Notice of Appeal in every action shall contain a Certification of Service or 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.

Rule 2:8 Record on Appeal 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 on the tape so transcribed of the proceedings, and the accuracy of those 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 Subordinate Forum. The tape shall only be used to correct or supplement the record pursuant to Rule 2:10.

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 2:10 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 2:11 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 the Clerk of the Grand Forum, a Notice of Motion for Leave to Appeal, within 15 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.

Rule 2:12 Statement of reasons of Presiding Justice, Subordinate Forum or Department; Findings If the Presiding Justice, Subordinate 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, Subordinate Forum or Department shall, within ten (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 2:13 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 review 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.

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Rule 2:14 Failure to File Brief; Consequences If a party fails to file a brief or his brief fails to comply with the provision 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 2:15 Letter Brief; Statement in Lieu of Brief In lieu of filing a brief conforming to the requirement 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 2:16 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 limitation shall be exclusive of tables of contents and citations, and may be relaxed by leave of the Forum.

Rule 2:17 Time for Serving and Filing Briefs; Appendices; Transcript

- (1) The Appellant shall serve and file his brief and appendix within thirty (30) 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 thirty (30) days after the service of the Appellant's brief.
The Appellant may serve and file a reply brief within fifteen (15) 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 thirty (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.
- (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 2:18 Appeals by Indigent Members If a member, by reason of poverty, seeks relief from the payment of fees and deposit for costs, he may file a verified petition setting forth the facts relied upon, and the Grand Forum if satisfied of the facts of indigency, shall enter an appropriate order waiving the payment of fees and deposit for costs.

Rule 2:19 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

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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 to the appellate Forum by filing a notice thereof with 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.

Rule 2:20 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, Subordinate 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, Subordinate 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 2:21 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.

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(2) Decisions and Opinions:

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 certification 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 re-determine the appeal, amend its opinion and decision or deny the motion.

— PART 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.

Rule 3:2-2 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 3:2-3 A check or money order in the amount of \$500.00 shall be paid in the Grand Secretary at the time of the filing of the complaint as a deposit to cover the cost of recording and transcribing the testimony. Any refund of the deposit due will be promptly made by the Grand Secretary upon receipt of the decision made by the Grand Forum.

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 Motion 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.

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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.

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.

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.

— PART IV — RULES GOVERNING DeNOVO JURISDICTION

Rule 4:1 DeNovo Jurisdiction of Grand Forum

- (a) An appeal of an Executive Order.
- (b) An appeal of a Subordinate 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 ten (10) days of receipt of the Order. *[sic]*
See Exhibit "C-2" for Form of Notice of Appeal.

Rule 4:3 Notice of Appeal — Subordinate Forum Verdict by Grand Exalted Ruler The Notice of Appeal by the Grand Exalted Ruler from a Subordinate Forum verdict shall be filed with the Secretary of the Lodge and the Grand Secretary within thirty (30) days after receipt of written notice of the judgment of the Subordinate Forum but in no case after two hundred forty (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 five hundred (\$500.00) dollars 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.

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.

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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 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 Testimony The testimony produced at the trial shall be recorded and transcribed and copies shall be distributed to all Grand Justices for review.

Rule 4:9 Decision The Grand Forum en banc shall, after the conclusion of the trial, as expeditiously as possible, render a decision.

— PART 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 Subordinate Forums, Subordinate Lodges and Departments of the Order A motion with supporting brief or memorandum for certification of an action or proceeding pending in any Subordinate Forum, Subordinate Lodge or Department of the Order shall be served and filed with the Clerk of the Grand Forum. Within ten (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 Hearing or proceeding 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.

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Rule 5:4 Certification and Appeals Where a party seeks certification of and also Appeals from any Decision of a Subordinate Forum, Presiding Justice thereof, Subordinate 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 two (2) or more Justices and upon final determination of the motion for certification, unless the Grand Forum otherwise orders. 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.

— PART 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 Chief Justice.

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 Subordinate Forum.

GRAND FORUM RULES

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, 2003.

DATE: July 4, 2003
St. Louis, Missouri

For the Grand Forum

Hon. James M. McQuillan, Chief Justice
Hon. Alfred M. Lama
Hon. Arlis W. Johnson
Hon. David E. Nething
Hon. Leon A. Karjola

Attest: Hon. Jack M. Jensen, Clerk

SUBORDINATE 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 Subordinate Forums of the Order.

Rule 1:1 These Rules shall be referred to as “Subordinate Forum Rules” and shall be cited, for example, as “S.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 “A” 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 jointed 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 a 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 When a Member of the Order has been convicted of a misdemeanor involving moral turpitude, or of a felony, 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, 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.

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 Subordinate Forum.

Rule 2:5.3 Upon the filing of such demand, the matter shall proceed before the Subordinate 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 Subordinate 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 Subordinate Forum.

MOTIONS

Rule 3:1 All motions shall be in writing unless made during a Hearing or Trial, and shall state the specific grounds therefore, and shall set forth the relief sought.

SUBORDINATE FORUM RULES

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 Subordinate 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.

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 "B-1" and "B-2" 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 Subordinate 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 Subordinate 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 Subordinate Forum, unless otherwise provided by Rule or Statute.

Rule 4:5 All Trials before the Subordinate 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 "D"*)

Rule 4:6.2 A solemn affirmation shall be accepted from witnesses who are not Members of the Order.

ADMINISTRATIVE PROVISIONS

Rule 5:1 The Secretary of the Lodge shall send to the Grand Secretary a brief summary of all Subordinate Forum proceedings which shall contain the following information:

SUBORDINATE FORUM RULES

- (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 SUBORDINATE FORUM RULES ARE ADOPTED TO BECOME EFFECTIVE JULY 10, 1997.

DATE: July 10, 1997
Chicago, Illinois

For the Grand Forum

Hon. Roger A. Benson, Chief Justice
Hon. Charles VanDyne
Hon. R. William Welbaum, Jr.
Hon. Joseph H. Riley, Jr.
Hon. Lee Davis Kell

Attest: Hon. James C. Varenhorst, Clerk

EXHIBIT "A"

FORM OF COMPLAINT

SUBORDINATE FORUM OF _____ LODGE, NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS
UNITED STATES OF AMERICA

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 _____, 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 he, 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 is
the above named Accuser, that he has read the foregoing complaint, knows the contents thereof, and
believes the same to be true.

(Signed) _____
Accuser

EXHIBIT "B-1"

FORM OF MOTION TO DISMISS

SUBORDINATE FORUM OF _____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS
UNITED STATES OF AMERICA

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) _____
Accuser [sic]

EXHIBIT "B-2"

FORM OF MOTION TO MAKE MORE SPECIFIC

SUBORDINATE FORUM OF _____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS
UNITED STATES OF AMERICA

Accuser

vs.

MOTION TO MAKE COMPLAINT
MORE SPECIFIC BY AMENDMENT

Accused

_____, the Accused, moves for an order requiring the following allegation of the Complaint be herein. [sic]

[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 Complaint does not sufficiently inform the undersigned to enable him to properly defend himself.

DATED: _____

(Signed) _____
Accuser [sic]

EXHIBIT "C-1"

NOTICE OF APPEAL

Name of Appellant

Address

()
Telephone No.

Appellant

vs.

APPEAL FROM
SUBORDINATE FORUM

Respondent

Lodge Name & No.

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 Subordinate Forum of _____ Lodge No. _____ in the State of _____, in accordance with Sec. 8.220, Laws of the Order.

[This appeal is being filled 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.]

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 _____, 20____; and that a transcript of the proceedings has been or will be ordered and the cost thereof paid by me or adequately provided for.

Appellant

EXHIBIT "C-2"

NOTICE OF APPEAL

Name of Appellant

Address

()
Telephone No.

Appellant

vs.

APPEAL FROM
EXECUTIVE ORDER NO. _____

Grand Exalted Ruler

Lodge Name & No.

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 \$500.00 as a deposit to cover the cost of transcription.

Appellant or Attorney

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 _____, 20____.

Appellant

EXHIBIT “D”

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 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 "E"

FORM OF NOTICE OF INTENT TO FILE COMPLAINT

_____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS

_____ 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 intent to prefer charges by filing a Complaint against the Accused charging him with 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 is the above named Accuser, that he has read the foregoing complaint, knows the contents thereof, and believes the same to be true.

(Signed) _____
Accuser

EXHIBIT "F"

**FORM OF WRITTEN MEDIATION STATEMENT
REQUIRED BY
SEC. 8.015(e.), LAWS OF THE ORDER**

_____ LODGE NO. _____
BENEVOLENT AND PROTECTIVE ORDER OF ELKS

Accuser

Accused

vs.

FORM OF MEDIATION
STATEMENT
Pursuant to Sec. 8.015(e.),
Laws of the Order

_____, 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

A P P E N D I X

I
Voting Requirements Guide

II
House Committee Hearing

III
Subordinate Forum Progress Guideline

IV
Tax Matters

V
1895 Incorporation of BPO Elks

VI
Sample of Lodge Incorporation

VII
Separate Corporation Articles

VIII
PER Association Constitution and By-Laws

IX
Certification for State Associations Constitution and By-Laws

X
Ritual for State Officers' Installation

APPENDIX I

VOTING REQUIREMENTS GUIDE

Unless specifically provided for in the Constitution and Laws of the Order, Robert's Rules of Order 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 [Section 12.070]
5. Approval of Club Management Budget [Section 16.040]
6. Application for reinstatement made by Member within thirty (30) 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]
 - a. Vote at its 1st 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]
11. Forfeiture of office by vote of the Lodge [Section 12.130]
 - a. Failure to memorize Opening, Closing, Initiation Rituals within thirty (30) days
12. 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 (1) nominee [Section 3090]

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” votes]

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. Ten (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. Ten (10) days’ notice to Members required

APPENDIX I

- 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. Applications for membership by Reinstatement [Section 14.180]
 - a. After thirty (30) 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

F. TWO-THIRDS MAJORITY OF MEMBERS PRESENT – BY VOTING SIGN OF AN ELK

(Members not voting are counted as “NO” votes)

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. Ten (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 any Law or to amend the Constitution [**Section 17.010**]

APPENDIX I

G. TWO-THIRDS MAJORITY OF MEMBERS PRESENT BY SECRET BALLOT

1. Life Membership [*Section 14.260*]
 - a. Ten (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. Ten (10) days' notice to Members required
4. Appeal to Lodge by a Member suspended from Club privileges [*Section 16.040*]
 - a. Ten (10) days' notice to Members required
 - b. To modify or reverse action of the supervising body requires two thirds (2/3rds) affirmative secret ballot

H. THREE-FOURTHS MAJORITY OF MEMBEERS 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

(Members not voting are counted as "NO" votes)

1. Voluntary surrender of Charter or Dispensation [*Section 11.100*]
2. Ten (10) day's notice to Members required

APPENDIX II

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.
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 16.040 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 must be served personally or by registered first class mail to the Member.
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 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.

APPENDIX III

SUBORDINATE FORUM PROCESS GUIDELINE (GLS – CHAPTER 8

Occurrence Section	Duties	Time frame	Notes	GLS Section
Offense	start action	within 4 years of occurrence		GLS 9.190
Notice of Intent	<p><u>Accuser</u> – files Notice with Secretary</p> <p><u>Secretary</u></p> <ul style="list-style-type: none"> - serves the Accused - notifies the Mediator <p><u>Mediator</u></p> <ul style="list-style-type: none"> - contacts Accused and Accuser - arranges Mediation - files Mediation Statement 	<p>→ promptly</p> <p>→ within 2 business days (if not done, ER appoints another mediator)</p> <p>→ within 5 days</p> <p>→ at conclusion of Mediation</p>	<p>2nd Notice of Intent cannot be filed while 1st Notice is pending between Accused and Accuser</p> <p>If no Mediation agreement is reached, proceed with Complaint within 10 days</p>	<p>GLS 8.015</p> <p>See GLS Ex. E</p> <p>See GLS Ex. F</p>
Complaint	<p><u>Accuser</u></p> <ul style="list-style-type: none"> - files Complaint with Secretary <p><u>Secretary</u></p> <ul style="list-style-type: none"> - serves the Accused - notify ER - notify Presiding Justice 	<p>→ within 10 days after Mediation Statement</p> <p>→ promptly</p> <p>→ promptly</p> <p>→ promptly</p>	file 3 copies of Complaint	<p>GLS 8.020</p> <p>See GLS Ex. A</p>
Subordinate Forum Appointed	<p>Subordinate Forum appointed</p> <p><u>Secretary</u></p> <ul style="list-style-type: none"> - send list of Subordinate Forum members to Accused and Accuser <u>Accused & Accuser</u> - may strike 6 names each <u>Exalted Ruler</u> - appoints 4 unchallenged names on list 	<p>→ at next regular meeting</p> <p>→ within 3 days</p> <p>→ within 7 days</p> <p>→ at next regular meeting</p>	See 8.040 if insufficient number remain	GLS 8.040
Preliminary Hearing	<u>Presiding Justice</u>			GLS 8.050

APPENDIX III

	<ul style="list-style-type: none"> - sets time for Preliminary Hearing - holds Preliminary Hearing - may dismiss, or accept plea <u>Secretary</u> - notifies Accused & Accuser of Preliminary Hearing - <u>Accused</u> - may file a Motion for Accuser to be More Specific, or a Motion to Dismiss - enters Answer, pleading guilty or not guilty - <u>Accuser</u> - if Complaint is dismissed, may appeal - if Motion to be More Specific granted, must comply 	<ul style="list-style-type: none"> → promptly → within 5-10 days → at Hearing → promptly → by time of Preliminary Hearing → at Hearing → within 30 days → within 7 days 	<p>Subordinate Forum not present at Preliminary Hearing</p> <p>see GLS 8.230</p>	<p>GLS 8.060</p> <p>GLS 8.070</p>
Answer	<p>Presiding Justice</p> <ul style="list-style-type: none"> - if Accused pleads not guilty, Set time for Trial, to be held - notice for Trial - if Accused pleads guilty, set Sentencing Hearing, to be held 	<ul style="list-style-type: none"> → within 5-10 days → no less than 3 days prior to Trial → within 5 days 		<p>GLS 8.080</p>
Trial	<p><u>Loyal Knight</u></p> <ul style="list-style-type: none"> - conducts prosecution 		<p>open to all Members in good standing</p>	<p>GLS 8.090—8.140</p>
Decision	<p><u>Presiding Justice</u></p> <ul style="list-style-type: none"> - signs, and gives to Secretary - <u>Secretary</u> - enters Decision in minutes - if acquitted, sends records by certified mail to GER 	<ul style="list-style-type: none"> → next regular meeting → promptly 	<p>Presiding Justice is a Member of the Subordinate Forum</p>	<p>GLS 8.140</p>
Appeal	<ul style="list-style-type: none"> - by Accused - by Accuser after Order to Dismiss has been granted by Presiding Justice 	<ul style="list-style-type: none"> → within 30 days → within 30 days 		<p>see GLS 8.220-8.250</p>

APPENDIX IV

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 in to the extent provided by law.

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.

APPENDIX V

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; Williard C. Vanderlip of Boston, MA; Peer 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 benevolence, 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, on 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

APPENDIX V

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,

"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 resolution of said corporation, and in accordance with Section 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 articles of incorporation hereinbefore specified and set forth;

"3. That the terms of the 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.

APPENDIX V

"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, objective, 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 where 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.

FORTH: 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

APPENDIX VI

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 provide 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 State 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 provision 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 INCORPROATIONS

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 WEREOF, I have hereunto affixed my signature as Secretary and have caused the seal of said Lodge to be affixed, this day of,

.....
(Seal)

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;

APPENDIX VI

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 _____, _____ .
.....

(Seal)
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 of 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 venture 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:

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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 the Board of Directors)

STATE OF }

ss.

COUNTY OF }

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

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 powers and authority to change said principal
office from one location to another in said County. Any change shall be noted on the By-Laws by the
Secretary, opposite this section may be amended to state the new location.

SECTION 2 – OTHER OFFICES

Branch or subordinate 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

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;
- (8) The duly elected and qualified Tiler.

In addition, the membership of this corporation shall at all times include four other individuals who are
embers 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
the 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.

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SECTION 2

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 limitation of the Articles of Incorporation, of the By-Laws, and of Part 1 Division 2, Title 1, of the Corporation 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 therefore not inconsistent with law, with the Articles of Incorporation or the By-Laws, as they may deem best.

THIRD: To adopt, make, and use a corporate seal, and to alter the form of such seal from time to time as in the 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 — SELECTIONS OF DIRECTORS AND TERM OF OFFICE

The Directors shall be elected by the members at the annual meeting of members to serve for one (1) 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 a 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.

APPENDIX VII

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.

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ARTICLE IV **OFFICERS** **SECTION 1 — OFFICERS**

The officers of the corporation shall be a President, Vice-President, Secretary and Treasurer. One (1) person may hold two (2) 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 or 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 places 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

APPENDIX VII

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 in 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 transaction 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.

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 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.

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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 by the Special Meeting of the Board of Directors hereof duly held on the day

.....
Secretary
(SEAL)

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.

APPENDIX VIII

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. Five members 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

APPENDIX VIII

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 ante-room.
- 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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Failure to appear for installation, Grounds for	12.010	Machines permitted	3.090
How filled	IV(5), 12.150	Member in arrears for dues may not vote	3.090
Lodges may declare	12.130, 12.140	New Lodge Members, on	11.010
		Officers, Subordinate Lodge, for	3.090, 11.090, 12.150
Violation of Obligation		Purchase, sale, lease, etc. property	16.050
Defined	9.070	Subordinate Forum, by	8.140
Penalties	9.060, 9.070	Subordinate Lodge, method of	15.080
		Voting sign	see Ritual
Visiting Card			
May be issued to spouse, etc.	14.140	— W —	
		“What It Means To Be An Elk”	14.070
Visiting Duties of Lodge	13.160	— Y —	
Visitors		Year	
I.D. cards issued by Lodge	14.140	Grand Lodge, defined	VII(1)
Membership card must be presented	15.050	Grand Lodge fiscal	4.020
National Home, privileges	6.070	Lodge fiscal year	16.010
Visitors Register		Youth Activities Committee	
Required	16.110	Of Grand Lodge	13.020, 13.041 13.061, 13.170
Vote in Grand Lodge			
Necessary for decision	III(14)		
Necessary to impeach	III(14)		
Voting (see Appendix also)			

END

CODE 520100