

LAW COMMITTEE REPORT – SPRING CONVENTION 2014

DUTIES OWED BY LODGE OFFICERS TO THE ORDER AND THEIR LODGE

The vast majority of our local lodges are formed and operated as corporations under the laws of the State of Michigan. This means, in addition to the duties the Trustees and Chair Officers owe their lodge as dictated by the Constitution, Statutes, Rules and Regulations of the Order and the local By-Laws of the lodge; they also owe duties to the lodge as members of the lodge's Board of Directors under Michigan Corporate law. Those duties which arise under the Constitution, Statutes, Rules and Regulations of the Order, the Michigan Business Corporation Act, or both, include:

A Duty of Care in the Performance of Your Lodge Duties.

A Duty of Loyalty to the Lodge, its Members and Your Fellow Officers

A Duty to Account for Financial Affairs and Transactions

A Duty of Confidentiality Regarding Lodge Affairs

A Duty of Full Disclosure of any Potential Conflict of Interest (Financial or Personal)

A Duty of Good Faith and Fair Dealing in all Transactions Involving the Lodge

Although Lodge Officers instinctively understand and follow many of these duties, incidents which have been brought to the attention of State Officers demonstrate that not all of these duties are routinely followed. Specifically, certain lodge officers have been found to place a duty of loyalty to one or more of their friends over the interest of their lodge as a whole. This includes examples where a lodge member who is friendly to one or more Lodge Officers commits acts unbecoming an Elk, such as sexual harassment or engaging in drunk and unruly behavior, but such action is "excused" because of personal ties. This type of behavior places the Lodge at risk for claims of sexual harassment, dram shop liability, or discrimination, and in any event is unfair to the other lodge members who have to endure such behavior. Additionally, there have been incidents where a lodge officer has reported acts of alleged misconduct involving a Lodge Officer to authorities outside of the Order (this generally involves questionable tax reporting procedures or an alleged misuse of a liquor license). Such action, motivated by a personal animosity against the officer, places both the officer and the Lodge at risk with civil/taxing authorities. Such action is a violation of an Elk's oath to handle matters involving the Order internally first and externally as a last resort. This constitutes violations of the Oath of Membership, the Duty of Confidentiality and Duty of Loyalty to the Lodge and Order.

It is recommended that the Exalted Ruler or Chairperson of the Board of Trustees remind the Lodge's Board of Directors and other Lodge Officers of these obligations at least once per year at an appropriate meeting.

If there are any further questions please feel free to contact me at pr@sullivanleavitt.com

Respectfully Submitted

Paul E. Robinson – Law Committee Chairperson