

## REPORT OF THE NATIONAL COUNSELOR

I have been honored again to serve in this office and say thank you to Brother Commander in Chief Kent Armstrong for his confidence in me, along with my thanks to this Encampment. I have rendered a few opinions concerning the Constitution and Regulations of this Order during this term in office.

- I. The question has been asked concerning life membership and payment of National Per Capita for the life member, when that Brother is a member of more than one Camp of the Order.

Dual membership has been allowed for a short time now, as recorded in National Regulations, Chapter I, Article II, Section 6:

“Applicants who are Brothers of the Order in another Camp or a Member-at-Large may become a dual Member of another Camp. The applicant need not pay the application fee, however, is subject to the full per capita assessment in both Camps.”

Those Brothers who have applied for Life Membership and paid the appropriate fee, are exempt from National per capita assessment. See National Constitution, Article VII, Section 1(b) Life Members:

“Members who have paid the requisite Life Membership fee as established by the National Organization. Life Members are exempt from the National per capita tax and otherwise, enjoy all the rights, privileges and responsibilities of membership.”

There are two life member programs where the National Organization shall reimburse a Camp various amounts, but such reimbursement is limited to one Camp only, at the designation of the Brother. See National Regulations, Chapter III, Article VI, Section 3. Our Constitution in Article VII, Section 1(b), makes no distinction between those Brothers who are in one Camp and those Brothers who are members of multiple Camps. The Constitution says that Life Members are exempt from the National per capita tax. Therefore, it is my formal opinion that Brothers who are members in multiple Camps, are exempt from all National per capita.

Rendered April 16, 2004.

- II. I have been asked to render a formal opinion concerning a matter of procedure in relation to National Regulations, Chapter V, Article VI (Discipline), concerning appeals. The question is: May a Brother of the Order who was not a party to a discipline action, request an appeal of that decision to the next higher body within the Order?

In considering this question, I consulted several legal sources. I found a case from the Supreme Court of the United States that appears to be on topic. There is a legal encyclopedia that gives an attorney a place to start research on a particular topic, which will state the general rule of law, with cases to support that position and then state any exceptions to that rule, with cases to support the exceptions. This set of wonderful books is American Jurisprudence, second edition. Within this set of books is the following:

“General rule of law: An appeal is generally available only to persons who were parties to the case below. Marino v Ortiz, 484 US 301, 98 LEd2d 629, 108 SCt 586.” Am Jur 2d, Appellate Review, §264.

There are exceptions to this general rule, but they are usually limited to those whom an adverse decision has greatly impacted - such as the press appealing an order to keep the press out of a courtroom during a particular proceeding.

After reading the article on Discipline in effect when the incident in question occurred, and the current article on Discipline, it is my formal opinion that only a party (complainant or respondent) to the disciplinary action, may appeal a decision to the next higher authority in the Order. Any person requesting an appeal who was not a party to the original action, should be ruled out of order and such motion or request is void. Rendered June 29, 2004.

Respectfully submitted in fraternity, charity and loyalty,

James B. Pahl  
National Counselor