

Inconvenient Facts

(what all EFMLS dues paying members must know!)

There has been a lot of misinformation being disseminated by the EFMLS Secretary, Bev Eisenacher, on her own with the support of the 1st Vice President, Ellery Borow and the current Executive group. The actions of these people are enough to have them removed from their offices. These actions come about in a knee-jerk reaction to the potential loss of power that the proposed Bylaws amendments would have on their positions.

We are going to present the facts here, which are backed up by the NY State attorney who was formally engaged to guide the Bylaws Committee in the revision of the Bylaws. This attorney deals with nonprofit law and is a past chairman of the NY Charities Bureau.

FACT: The laws governing nonprofit corporations in the state of NY take precedence over individual groups. The current Bylaws of the Federation, which were ratified in 2016, are out of compliance with the NY Not-For-Profit corporation statutes. At the time the last Bylaws amendments were passed, under the direction of Steve Weinberger, they were out of compliance. NY had a major overhaul of these laws, the first in more than 40 years, in 2013. The Federation should have Bylaws that stand in compliance with NY's state laws.

FACT: There is only one Board & it is NOT the Exec committee. The only Board is the Board of Directors, you the President Directors. You are the ONLY governing body of the Federation; you own the Federation, it is your organization.

FACT: The only duties that the Executive group can exercise are in the event of an emergency, when the Board of Directors would not be able to meet. Perhaps it made sense in the past for there to be a committee to be able to conduct "business as usual" when there was no virtual ability as there has been for a number of years. In fact, the Executive group has been taking on more and more of the power(s) of the Board of Directors, without the authorization of that Board.

FACT: The state of NY has allowed virtual meetings for Annual meetings for a number of years. The August 17th Board of Directors meeting called by President Nock was considered a "Special" meeting and thus allowed under the Executive Order signed by Governor Cuomo and extending to December 31st. Therefore, the actions undertaken and the vote taken are allowed and will stand.

FACT: The proposed Bylaws amendments which are before the Board of Directors and being voted on October 21st represent sweeping changes to the Federation's governance – it is being handed back to the Board of Directors, but you must act. If you want the Federation to be under your control and acting for the benefit of the local societies, you must pass these amendments. As was stated at the most recent Question & Answer Discussion, there are such significant changes that comparing them to the previous Bylaws is meaningless. The proposal must stand on its own.

FACT: The proposed Bylaws amendments were sent to the President Directors on August 22nd; add 60 days and October 21st is the day of the vote. The objection being brought up by the current Executive group is not valid.

FACT: There is nothing stating that once the proposed amendments have begun the 60-day review process there can be no revisions. In fact, the 60-day period is meant for the President Directors to review and discuss, to revise and potentially change particular items that they feel may/might need such. In the past, the

Board of Directors has only been perfunctorily notified of proposed amendments. Please check with your past President Directors and ask if they have ever voted to ratify any Federation Bylaws amendments. We believe that has not happened in recent memory. This Bylaws Committee has invited the Board of Directors to give their input and bring their comments and objections to three question and answer discussions. These proposed amendments have been revised according to those discussions and the advice of the lawyer who was hired for that purpose.

FACT: The executive committee, since the 2013 NY State nonprofit law overhaul, is specifically prohibited from performing the following actions by the state of NY:

- (1) The submission to members of any action requiring members' approval under this chapter.
- (2) The filling of vacancies in the board of directors or in any committee.
- (3) The fixing of compensation of the directors for serving on the board or on any committee.
- (4) The amendment or repeal of the by-laws or the adoption of new by-laws.
- (5) The amendment or repeal of any resolution of the board which by its terms shall not be so amendable or repealable.
- (6) The election or removal of officers and directors.
- (7) The approval of a merger or plan of dissolution.
- (8) The adoption of a resolution recommending to the members action on the sale, lease, exchange or other disposition of all or substantially all the assets of a corporation or, if there are no members entitled to vote, the authorization of such transaction.
- (9) The approval of amendments to the certificate of incorporation.

As can be seen by the foregoing prohibitions, the current Executive committee has been acting as a law unto themselves, either through ignorance of the law or as a deliberate endeavor – or both.

FACT: The Executive group did NOT have the authorization to hold a “Special” meeting in early September, therefore no action or vote taken is valid. 1st Vice President Borow is NOT authorized to act in the place of the President, who was not incapacitated or unable to be located. The Executive group did not have authorization to cancel the Annual Convention or the Annual meeting.

FACT: The annual meeting will be held virtually, as voted by the Board of Directors, at the August 17th Special Board of Directors meeting. The ability to register will continue up to the day of the meeting, by the registration with Zoom to attend the meeting. Any voting will be done on the Zoom platform, with an independent auditor counting votes.