



Fordell Castle

Clan Henderson Society, INC

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REPORT OF THE VICE PRESIDENT & GENERAL COUNSEL TO THE EXECUTIVE BOARD AND MEMBERSHIP OF THE CLAN HENDERSON SOCIETY

Over the past year, there have been several legal matters that I have been involved in addressing or advising the Executive Committee, the Executive Board, or Society officers. A recurring matter concerned the required conflict of interest statements. The second matter was the review of investment policies. The third matter concerned the decision to create a Society endowment fund for scholarship purposes. The fourth matter, while not directly related to my office, concerns my attendance of the 2023 Scottish North American Community Conference held during last year's Olde Alexandria Christmas Walk.

CONFLICT OF INTEREST STATEMENTS

To be sure, this year's compliance was far better than last year's. That being said, there is still room for improvement. The Society Bylaws require officers and certain other individuals to file conflict of interest statements with the Society Secretary and have the Executive Board review them. Under Article IX, Section 7, of the Bylaws, Executive Board members and "interested persons", as determined by the Board, are required to file a statement annually with the Society Secretary regarding conflicts of interest. The necessary form is attached to the Bylaws. There is also a fill-in form to make it easier for those persons to file the statement online. If someone is not sure that it is applicable to them, they should fill it out and send it to the Society Secretary anyway. Furthermore, these forms must be filed in a timely manner so that the Executive Board can properly review them. This is part of the Board's corporate oversight responsibilities and is an annual board meeting requirement. This is one of the items the IRS looks for when auditing a 501(c)(3) organization. See the attached information from the IRS website.

This brings me to two potential conflict of interest issues that arose this year. The first had to do with the sale of personal items, that is, not Henderson Clan Society related items, during a

Scottish festival from a Society sponsored booth. The second concerned the use of the Society's Constant Contact Account for a non-Society purpose.

With respect to the first matter, my advice was to not allow it. There are several reasons for this advice. First, it would appear to be a rather straightforward use of Society property to the extent that the Society is paying for the booth space. Second, patrons might not recognize that while they might think that they are supporting the Society when the proceeds are not inuring to the benefit of the Society. Third, the Society could find itself having to defend in court some injury or damage from some product it had nothing to do with. Fourth, most festivals have rules in place that prohibit or limit what a clan can sell at their booth so as not to compete with fee paying vendors. We do not want to be removed from a festival for a reason for which the Society's reputation would be injured especially for something for which the Society received no benefit. Fifth, there may be sales tax implications for such transactions.

With respect to the second matter, it was decided to allow the use as there was no additional cost to the Society and there was no connection to be identified between the Society and the group of emailed individuals. My main concern was any potential issues with Constant Contact using the Society's account for a non-Society purpose.

REVIEW OF INVESTMENT POLICIES

I reviewed the Investment Policies considered and approved by the Executive Board of the Society.

REVIEW OF ADVANCEMENT COMMITTEE LETTER SOLICITING DONATIONS TO THE SOCIETY SCHOLARSHIP PROGRAM ENDOWMENT FUND

I reviewed a proposed letter from the Society Advancement Committee to Society members soliciting donations to the Society's scholarship program endowment fund. I recommended some language to inform potential donors that at some point in the future the Society might be transferring the scholarship funds to a proposed Fordell Foundation for the purpose of management.

2023 SCOTTISH NORTH AMERICAN COMMUNITY CONFERENCE

Along with my wife, I attended the 2023 Scottish North American Community Conference in Alexandria, Virginia held during the Olde Alexandria Scottish Christmas Walk. The official title of the conference was: The Scottish North America Community Conference-'How Our History and Community Empowers Our Future'. There were several presentations:

Charles, Lord Bruce, presented on the "Clan Chiefs' Heirs Project" a project of the Standing Council of Scottish Chiefs (SCSC). Alasdair Morrison, Chief of Clan Morrison, discusses his

role in the “Clan Chiefs’ Heirs Project”. Angus Kincaid, Heir to the Clan Kincaid discusses his role in the “Clan Chiefs’ Heirs Project”.

Challenges Young Volunteers and Enthusiasts Face - A Panel Discussion moderated by COSCA President John King Bellassai.

A presentation on the second day of the conference from Dr. Joseph Morrow, Lord Lyon King of Arms regarding his “A Right Royal Year.”

Chris Thomson, Scottish Government Counsellor, USA, Scottish Affairs Office USA brought greetings from the Scottish Government.

Stacie Andersen, Chair of the Sister Cities of Alexandria, spoke about Alexandria’s sister city Dundee and the roles that the Sister Cities of Alexandria provides.

Madam Pauline Hunter of Hunterston, 30th Chief of Clan Hunter brought greetings and a message from Clan Hunter.

A panel discussion from some of the different Scottish organizations in the District of Columbia, Maryland & Virginia and how they collaborate with one another. Presenters included: Gregory Haymon, President, St. Andrews's Society of Washington, DC; Tracy Morton and Heather McKenzie Haddock, Co-Chairs, Sottish American Women's Society; Alexandra Duncan, Vice President, Virginia Scottish Games & Festivals Association; and John King Bellassai, Co-Chair, National Capital Tartan Day Committee, Inc.

There were presentations under the title of “The Power of Dance & Music to bring our Young Scottish Community” which included Part One - The Chicago Dancing Scots, Part Two - Marjorie Stewart: Shot of Scotch, and Part Three - Jennifer Licko, Highland Echoes.

Camilla G. Hellman, President of the American Scottish Foundation, discussed upcoming events, exhibits and openings at various cultural institutions and museums throughout Scotland.

ACTION ITEMS

The following are items derived from the discussion above that the Executive Board should consider by motion or resolution, as appropriate:

1. Conflicts of interest statement review and approval
2. Policies and rules for the operation and monitoring of Society committees
3. Organization of the Fordell Foundation

Respectfully submitted,

Vincent C. Henderson II

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Form 1023: purpose of conflict of interest policy

What is the purpose of the conflict of interest policy?

Charitable organizations are frequently subject to intense public scrutiny, especially where they appear to have inappropriately benefited their officers, directors or trustees. The IRS also has an oversight role with respect to charitable organizations. An important part of this oversight is providing organizations with strategies that will help avoid the appearance or actuality of private benefit to individuals who are in a position of substantial authority. The recommended conflict of interest policy is a strategy we encourage organizations to adopt as a means to establish procedures that will offer protection against charges of impropriety involving officers, directors or trustees.

A conflict of interest occurs where individuals' obligation to further the organization's charitable purposes is at odds with their own financial interests. For example, a conflict of interest would occur where an officer, director or trustee votes on a contract between the organization and a business that is owned by the officer, director or trustee. Conflicts of interest frequently arise when setting compensation or benefits for officers, directors or trustees. A conflict of interest policy is intended to help ensure that when actual or potential conflicts of interest arise, the organization has a process in place under which the affected individual will advise the governing body about all the relevant facts concerning the situation. A conflict of interest policy is also intended to establish procedures under which individuals who have a conflict of interest will be excused from voting on such matters.

Apart from any appearance of impropriety, organizations will lose their tax-exempt status unless they operate in a manner consistent with their charitable purposes. Serving private interests more than insubstantially is inconsistent with accomplishing charitable purposes. For example, paying an individual who is in a position of substantial authority excessive compensation serves a private interest. Providing facilities, goods or services to an individual who is in a position of substantial authority also serves a private interest unless the benefits are part of a reasonable compensation arrangement or they are available to the public on equal terms and conditions.

From <https://www.irs.gov/charities-non-profits/form-1023-purpose-of-conflict-of-interest-policy>