

Sent: Thursday, September 20, 2007 6:17 PM  
Subject: Suggestions to Alumnae Association Board

**An open message to the Alumnae Association Board of Directors:**

Dear Colleagues on the Board of Directors of the Alumnae Association of Randolph-Macon Woman's College, Incorporated, and members of the Special Task Force,

As an attorney, I am concerned about possible legal ramifications of the Alumnae Board's current composition and our ability to act on behalf of the Alumnae Association in light of our meetings last weekend. I offer the following ideas and thoughts that have occurred to me in the time following the board meeting on Friday and the Annual Meeting of Members on Saturday about how we might quickly and easily solve the problem of non-compliance with our bylaws and articles of incorporation. I understand that attorney Jim Richards, whom Emily engaged to offer legal advice to the Alumnae Board, attended the meeting Saturday morning but I've not met him and so I cannot confirm that he was there. In any event, we need advice from him or some other Virginia attorney to help us straighten this situation out. I hope you will feel free to follow up with me by email or telephone (713/622-2255, 713/542-5073 cell) if you have any questions or would like to discuss any of the following ideas.

**1. Noncompliance of the current Alumnae Association Board of Directors.** As Emily confirmed during the annual meeting, this board is not constituted in compliance with our bylaws and our articles of incorporation, which require that members be given an opportunity to vote on candidates for board positions and that at least 75% of the positions on the board be elected by the membership. The remaining directors are to be appointed by the elected members. Currently there are three members out of twenty five who have been elected - that amounts to 12%, a far cry from 75%. A prompt, inexpensive, and procedurally correct way to comply with those governing documents and correct the situation was proposed at the Annual Meeting: to dissolve the existing board (allowing re-nomination of current members and other nominations from the floor) and hold an election at that annual meeting. The resolution did not pass and no other solution was presented. Therefore, the composition of the board still remains in violation of the bylaws and articles of incorporation.

**2. Consequence of continued violation.** When a board is not constituted according to its own governing documents (bylaws and articles of incorporation), it does not have the proper authority to take action on behalf of the corporation. This means we will be impaired in our ability to make any financial or other decisions of consequence on behalf of the Alumnae Association until the irregularity is corrected. (This situation is called "ultra vires" or "beyond powers" granted by law in many states, but I have not determined its interpretation under Virginia law.)

**3. How to correct the noncompliance now.** I suggest that what needs to happen, as quickly as possible, is an election of at least 75% of the board positions by the membership, which includes students who have completed at least one semester at Randolph-Macon Woman's College, so that we are not violating our bylaws and articles of incorporation. The plan to re-publish the slate of seven members, along with a ballot, in the next Alumnae Bulletin, is only a partial solution, because while it would address the problem of the missing ballot, it would not cure the 75% requirement. Under the proposed scenario, even if these seven positions were elected properly with a ballot, we would still have only ten positions out of 25 total elected by the membership, or 40% of the board and not 75%. Instead, I suggest the following: that a list of at

least 19 director positions (25 total board positions, "at least 75% of whom shall be elected by the membership."), along with a ballot and spaces for write-in names, be included in the upcoming issue of the Alumnae Bulletin. (In a visit with Beth Knabel on Sunday, she confirmed that she has about three weeks before the next issue needs to be at the printer.) These 19 or more positions would include the most recent additions to the board. Or, because there are only 20 elected positions on the board, to me the preferable method would be to simply dissolve the board and have all 20 elected positions on the ballot with space for nominees and 20 write-ins, essentially the procedure proposed at the annual meeting. Of course, the current officers and directors would be eligible to be nominated and elected to their previous positions, also a feature of the proposal at the annual meeting. In addition to current members, a list of candidates who have agreed to serve in various positions was given by Gail Ballou '64 to Heather on Saturday, and those names should also appear on any ballot. Although the recent Nominating Committee practice may have been to nominate only "one nominee for each office to be filled" (bylaws Art. VI, Sec. 2.1.b.), nothing in our bylaws precludes the presentation of additional nominees to our members, nor do our bylaws preclude providing members a write-in option. Therefore, I propose that the ballot to be included in the next Alumnae Bulletin would list (a) the current twenty "electable" officers/directors (assuming they are willing to serve), along with (b) the names proposed on the slate of additional names which Heather has received (I can send you this list if you haven't seen it), (c) with blank lines for write-in candidates, all on a ballot to be signed by the alumna (printed name too) with her class year and mailed. Finally, the ballots would not be counted until an agreed date and time when representatives and observers can be present to participate in the counting process.

**4. Request for copies of audited financial statements.** So that we are fully informed about the financial condition of the Alumnae Association, I request that as soon as possible, copies of the past five (5) years of audited financial statements be provided to Barbara Niedland McCarthy, Chair, and to members of the finance committee. The committee could provide information from those audits upon request from other board members. When I asked Heather on Thursday to take a look at these audits, she was unable to find them, but the CPA firm that performed the audits or perhaps Chris Burnley would have copies.

**5. Request for information on officers and directors liability coverage.** I also would like to know whether this board has any insurance coverage under an officers and directors liability policy and if so, the details of that coverage. This information should be available to any of us on a routine basis, but I am particularly interested in such coverage while our board is out of compliance with our bylaws and articles of incorporation.

I look forward to working with all of you as we attempt to put our house back in order. It is important that we do it promptly.

My best,

Muffie Moroney '65 (Director, District 9)