

CODE OF PROCEDURE
OF THE
GRAND LODGE
OF
FREE AND ACCEPTED MASONS
OF THE
STATE OF NEW YORK

Effective May 6, 1942
Amended May 3, 1944
Amended May 8, 1947
Amended May 3, 1951
Amended May 2, 1956
Amended May 6, 1965
Amended May 8, 1974
Amended May 1, 1985
Amended May 6, 1986
Amended May ____, 2025

NOTE: The proposed amendments and changes thereto are in ***bold underlined italics*** and/or highlighted.

NOTE: This *Code of Procedure* only makes reference to the Proctor and his function, but not to his assistants, four Regional Deputy Proctors (Constitutions, Sec, 126, amended 1935) "who shall possess the same qualifications as the Proctor, and shall perform all the duties and possess all the authority of the Proctor" for all cases assigned to them by the Proctor. Therefore, the references to the Proctor herein pertain equally to the Regional Deputy Proctors in those circumstances.

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CODE OF PROCEDURE

CHAPTER I

PRELIMINARY PROVISIONS

SECTION 1. *Title of the Code.*

This law shall be known as the Code of Procedure.

SEC. 2. Foundation of Masonic jurisprudence. The foundation of Masonic jurisprudence is the common law of Freemasonry, which is to be learned from the ancient usages of the Craft as developed and interpreted from and since the year 1721¹, **including the Ancient Landmarks of the Craft, together with the Edicts, Laws, and Regulations issued from and by the Grand Lodge of the State of New York.**

SEC. 3. Purpose of Masonic discipline. The primary purpose of Masonic discipline is to preserve the good repute and integrity of the Masonic institution by the prosecution and punishment of a particular Lodge whose acts or neglects tend to injure the Craft as a whole, or of an individual whose acts or neglects tend to injure a particular Lodge or the Craft as a whole or which have inflicted injury upon a Brother Mason. It is not intended for the determination of private disputes, whether religious, political or secular, or of differences growing out of business transactions unless such differences result from action by the accused while acting in a fiduciary capacity by means of fraud or misrepresentation or amounting to larceny as defined by the Penal Law of the State of New York.

SEC. 4. Regulation of Masonic disciplinary proceedings.

The method by which Masonic discipline may be invoked and Masonic offenses prosecuted, tried and punished is regulated by this Code of Procedure, but prosecutions pending at the time of its adoption shall be continued under the Code of Procedure as it theretofore existed.

SEC. 5. *Enumeration of Masonic offenses by individual.*

Masonic offenses which subject an individual offender to trial and punishment are of five kinds, viz.:

- (a) Acts or conduct tending to impair the purity of the Masonic institution or its usefulness, or to cause scandal, or to degrade it in public estimation, or which are in any wise contrary to its principles, obligations or teachings;
- (b) A violation of the Constitutions, laws, rules or edicts of Grand Lodge or failure to observe the same;

¹ See G.M. George Payne, *The General Regulations of a Free Mason* (1721).

- (c) Disobedience of lawful Masonic authority;
- (d) Disobedience to process authorized by any law of Masonry, including this Code of Procedure;
- (e) Contemptuous, disrespectful or provocative language or conduct toward any lawful Masonic authority at a time and place when such authority is acting as such.

SEC. 6. *Enumeration of Masonic offenses by Lodge.*

Masonic offenses which subject an offending Lodge to trial and punishment are of four kinds, viz.:

- (a) Departure from the original plan of Masonry and Ancient Landmarks;
- (b) A violation of the Constitutions, laws, rules or edicts of Grand Lode or failure to observe the same;
- (c) Contumacy to the authority of the Grand Master or Grand Lodge;
- (d) Disobedience to process authorized .by any law of Masonry, including this Code of Procedure.

SEC. 7. *Limitation of prosecution — general rule.*

Except as hereinafter provided in Sections 8 and 9, a prosecution for a Masonic offense must be **commenced within five years after the commission thereof. Notwithstanding the foregoing, a prosecution for larceny committed by the accused, whether having a fiduciary duty or not, may be commenced within two years after the facts constituting such offense are discovered by the Grand Master.**

SEC. 8. *Same — when charge is of felony of which accused has been convicted.*

A prosecution for an offense which constitutes a felony as defined by the Penal Law of the State of New York of which the accused has been convicted by the judgment of a court of law of competent jurisdiction may be commenced at any time within five years after the **date of the Grand Master's discovery of** such judgment.

SEC. 9. *Same — when charge is of misrepresentation, concealment or deceit in relation to initiation.*

A prosecution for making any misrepresentation to the Lodge in which he was initiated, or to a committee of investigation appointed by such Lodge, or of using any concealment or deceit in relation to his initiation, may be commenced against the offender at any time.

SEC. 10. *Same — when charge is against Master or Past Master for official misconduct.*

A prosecution for official misconduct while holding the office of Master may be commenced against the Master or a Past Master of a Lodge only during the term of such Master, or within one year after the **discovery of such official misconduct by the Grand Master; provided, however, that this limitation shall not apply if such misconduct shall involve moral turpitude.**

SEC. 11. *When prosecution deemed commenced.*

A prosecution is deemed to be commenced when the complaint is presented to the Grand Master.

SEC. 12. *Necessity of conviction by Masonic trial.*

Save in those cases in which a Lodge, the Master or the Grand Master has inherent right to exercise disciplinary powers, **or such cases in which a Mason has been convicted of a sex crime the sentencing for which requires registration under the Sex Offender Registration Act ("SORA") or any direct state or federal analogue, or any felony conviction in which the underlying conduct constitutes "moral turpitude" as defined in Section 32 of the Analysis of Masonic Law of New York (Rules of Construction part G),** no Mason may be punished for a Masonic offense except upon conviction on a Masonic trial.

SEC. 13. *Masonic trial defined.*

A Masonic trial is the proceeding by which a Brother or a particular Lodge charged with a Masonic offense is accused and prosecuted before a Trial Commission appointed pursuant to the provisions of this Code of Procedure, *whether or not* an issue of law or fact, or both, shall have arisen by reason of an answer interposed by the accused.

SEC. 14. *Date of service. Computing time.*

The date of service of any paper shall be deemed to be the date of the personal delivery thereof or, if it be served by mail, the date of mailing. **If any paper is served electronically, the date of service shall be the date upon which the electronic notice was sent.**

In computing the time within which an act must be done, the first day shall be excluded and the last day included except where the last day is a Sunday or a legal holiday, in which case it shall also be excluded. When an act is required to be done in two days and a Sunday or a legal holiday intervenes, it must also be excluded.

SEC. 15. *Service of papers upon attorney.*

Except in the case of the charges and notice required by Section 35, any paper or notice required by this Code of Procedure to be served on the accused may be served by ordinary mail **or electronic notice with a read receipt requested,** upon an attorney who has appeared for him.

SEC. 16. *Number — singular and plural.*

Words in the singular number include the plural and in the plural number include the singular.

CHAPTER II INSTITUTING A MASONIC TRIAL

SEC. 20. *Parties.*

A Masonic trial is prosecuted in the name of the Brother preferring the charges, called the complainant, against the individual or particular Lodge charged with an offense, called the accused.

SEC. 21. *Complaint defined.*

The complaint is the allegation made to the Grand Master that an individual or a particular Lodge has been guilty of Masonic misconduct.

SEC. 22. *Charges defined.*

The charges are the formal allegation of the commission by the accused of some designated Masonic offense and of the facts and circumstances tending to support such allegation.

SEC. 23. *How Masonic trial instituted.*

A proceeding seeking the punishment of an individual Mason or of a particular Lodge through a Masonic trial, shall be instituted by a complaint transmitted to the Grand Master or by charges prepared by direction of the Grand Master of his own motion.

SEC. 24. *Who may make complaint.*

Any Mason in good standing may prefer a complaint against another Mason or against a particular Lodge.

SEC. 25. *Contents of complaint.*

A complaint must be in writing, addressed to the Grand Master and signed by the Brother making it, but no precise form is prescribed. It should, however, state comprehensively, yet briefly and without needless repetition, the time, place and circumstances of the acts or omissions complained of so that the Grand Master may determine whether, if proven, they would constitute a Masonic offense and, where the facts are not personally known to the signer, it must state the sources of the signer's information and attest his belief in their truth.

SEC. 26. *Action by Grand Master upon complaint.*

After a complaint has been received by the Grand Master, he may **in his absolute discretion, direct an attempt to adjust the matter without a prosecution, or he may** determine whether or not the same shall be prosecuted or dismissed. According to his

determination, he shall indorse the complaint "entertained" or "dismissed," followed by his signature and title.

SEC. 27. Procedure when complaint. "dismissed" by Grand Master.

When the Grand Master has dismissed a complaint as provided in Section 26, he shall forward the same to the office of the Grand Secretary, where it shall be kept on file for a period of six years, and the Grand Secretary, with all convenient speed, shall notify the complaining Brother of the Grand Master's determination.

SEC. 28. Dismissal of complaint by Grand Master as defense.

If the Grand Master dismisses a complaint as provided in Section 26, his determination shall constitute a complete defense to any future charges based upon the particular acts or neglects alleged in the complaint so dismissed.

SEC. 29. Procedure when complaint "entertained" by Grand Master.

When the Grand Master has entertained a complaint as provided in Section 26, he shall appoint a Trial Commission as provided in **Section 30** and shall file the certificate of such appointment with the Grand Secretary, who in turn shall notify the Trial Commissioners of their appointment. **Concurrent with filing the certificate with the Grand Secretary, the Grand Master shall also send notification of such appointment along with the complaint to the Proctor.**

Such transmittals to the Grand Secretary and Proctor may be made by writing sent through the United States mail or by electronic notice, read receipt requested.

SEC. 30. *How Trial Commission composed.*

A Trial Commission shall consist of not less than three or more than five disinterested Brethren who have attained the rank of Master and are members in good standing of at least three different Lodges other than the accused Lodge or the Lodge of which the accused is or last was a member, the first one of whom designated by the Grand Master shall be the Chairman and a majority of whom shall constitute a quorum.

SEC. 31. *Preparation of charges.*

As soon as conveniently may be after his receipt of a complaint which has been entertained by the Grand Master, it shall be the duty of the Proctor to prepare charges against the accused predicated upon the allegations of the complaint.

SEC. 32. *Form of charges.*

The charges shall be entitled "In the matter of Charges preferred by [naming the complainant] against [naming the accused]" and shall be signed by the Proctor.

If the complaint alleges acts or neglects on the part of the accused which constitute different offenses, or different manners of committing a single offense, these may be joined in one instrument which shall describe the separate offenses as "Charge I",

“Charge II”, etc., and the different acts constituting the same offense as “Specification I”, “Specification II”, etc.

SEC. 33. *Charges and notice must be served on accused.*

Promptly after the charges have been prepared as provided in Section 32, the Proctor shall cause a copy of the same to be served upon the accused in the manner hereinafter particularly specified, together with a notice which shall contain the name, address and Lodge membership of each of the trial commissioners appointed to pass upon the same and a statement that if the accused shall fail to answer the charges and specifications prior to a date therein specified, he will be deemed to have admitted the commission of the offense as charged or the truth of the facts alleged in the specifications.

SEC. 34. *Manner of serving charges, etc., on accused.*

The charges and notice prescribed in Section 33 may be served upon an accused Brother by any one or more of the following methods:

- (a) by delivering the same to him personally;**
 - (b) by mailing the same to the accused at his last known residence as it appears on the books of the Lodge of which he is, or last was, a member, or, if known to the Proctor, at his actual place of business by First Class Mail in in a properly enclosed postpaid envelope deposited in a post-office or in any mail box regularly maintained by the United States Postal Service;**
 - (c) by mailing the same to the accused at his last known residence as it appears in the records of the Grand Lodge, or, if known to the Proctor, at his actual place of business, by Certified or Registered Mail (return receipt requested), in a properly enclosed postpaid envelope deposited in a post-office or in any mail box regularly maintained by the United States Postal Service;**
 - (d) by depositing the same with Federal Express, United Parcel Service, or such like common carrier with signature required for delivery, directed to him at the last address of the accused as it appears in the records of the Grand Lodge, or, if known to the Proctor, at his actual place of business;**
 - (e) by transmitting the same to the accused at the electronic mail (e-mail) address as it appears in the records of the Grand Lodge, so long as such electronic notice is sent with a “read receipt requested”;**
 - (f) if the accused is known to be imprisoned in any jail, prison, or other penal facility in the United States, by mailing the same to the accused at such facility by First Class Mail or Certified Mail in a properly enclosed postpaid envelope deposited in a post-office or in any mail box regularly maintained by the United States Postal Service, or by electronic notice described above;**
- or**

(g) if service is impracticable under paragraphs (a) through (f) of this section, in such manner as the Grand Master, upon written request of the Proctor, directs.

If the accused be a Lodge, the charges and notice may be served on the Master or Secretary of such Lodge in the same manner as is provided in this Section for the service of charges upon an individual.

SEC. 35. *Who may make service.*

Any person over the age of twenty-one years, other than the complainant, may make service upon the accused, but, so far as may be practicable, service should be by a Master Mason.

SEC. 36. *Proof of service.*

Proof of service upon an accused shall be the affirmation of the person effecting it, which shall detail the time, place and manner thereof. If service is effected under paragraphs (b), (c), (d), (e), or (f) of Section 34, such affirmation shall be accompanied by a copy of any receipt(s) received by the person effecting service.

SEC. 37. *Answer by accused and effect of default.*

The accused must answer the charges and specifications in writing and serve the original and a copy of his answer upon the Proctor within the time specified in the notice served in accordance with the provisions of Section 34, and, if he shall fail so to do, shall be deemed to have admitted their truth, provided said notice was served upon him personally, or by registered **or certified mail** and a return receipt signed by him or by someone in his behalf shall have been received, **or by electronic notice and a read receipt shall have been received, or by first-class mail addressed to the accused then resident in a jail, prison, or other penal facility in the United States.**

SEC. 38. *Permissible forms of answer.*

An answer to the charge or charges or to any specification thereof may consist of

- (a) a general denial;
- (b) an admission with the addition of an exculpatory statement or explanation; or
- (c) an admission without exculpatory statement or explanation an either with or without a plea in mitigation of punishment.

SEC. 39. *Time within which accused must answer.*

The times within which the accused must answer the charges and specifications shall be as follows:

- (a) If the charges have been served on him in any manner within the State of New York, he shall have thirty (30) days within which to serve his Answer;**
- (b) If the charges have been served on him in any manner outside of the State of New York, he shall have sixty (60) days within which to serve his Answer.**

For purposes of this section and section 44 below, an accused Brother shall be deemed served “within” the State of New York if his last known residence as it appears in the records of the Grand Lodge is located within New York State.

SEC. 40. *Challenge to trial commissioner — right to.*

In any case in which, within the time specified in the notice, the accused shall make and serve an Answer to the charges, he may challenge one or more of the trial commissioners for bias, actual or implied, including consanguinity, affinity or association in business or otherwise.

A challenge to a trial commissioner shall be in writing, stating the facts upon which the allegation of bias is predicated, which facts shall be certified by the accused to be true. ***Any such challenge must be a part of the accused's written Answer.***

SEC. 41. *Same — duty of Proctor upon receipt of challenge.*

Upon receipt of a challenge to a trial commissioner, the Proctor shall furnish a copy thereof to the trial commissioner against whom the same is directed, who shall thereupon forward to the Proctor his reply thereto and such challenge and reply shall be forwarded by the Proctor to the Grand Master.

SEC. 42. *Same — by whom and how determined.*

The Grand Master, in his absolute discretion; may sustain or overrule a challenge to a trial commissioner. If he shall overrule, the effect shall be the same as if no challenge had been interposed. If he shall sustain the same, he shall name a substitute commissioner and notify the Proctor of such appointment.

SEC. 43. *Same — duty of Proctor when challenge sustained.*

Upon receipt of notice of the appointment of a substitute trial commissioner, the Proctor shall, by ordinary mail ***or electronic mail***, notify the accused of such appointment.

SEC. 44. *Same — challenge to substituted trial commissioner.*

The accused may challenge a substituted trial commissioner provided such challenge is received by the Proctor within ten ***(10)*** days after the ***transmission*** of notice of the substitution if the address of the accused is within the State of New York or within twenty days ***thereof if the address of the accused is outside of the State of New York.***

SEC. 45. *Abatement of prosecution.*

A prosecution to punish for a Masonic offense shall abate upon the death ***or incapacity (as determined by a Court under Article 81 of the Mental Hygiene Law or such analogous statute in the state of the accused's residence)*** of the accused but not upon the death of the complainant. ***When charges are filed against a Lodge, the death or incapacity of the Master of the Lodge shall not abate any prosecution.***

SEC. 46. *Alternative dispositions on consent of all parties.*

At any point after the Grand Master has entertained a complaint as set forth in Section 29, and before a trial or hearing has been held by the Trial Commission pursuant to Sections 80, et seq., the accused Brother/Lodge and the Proctor may, with the consent of the complainant, enter into a stipulated disposition of the matter on terms agreed to by such parties (i.e. a “plea bargain”). The essential terms of such stipulated disposition shall include (1) the accused’s admission of guilt to one or more of the charged Masonic offenses; (2) the acceptance by the accused of one or more specifically-defined penalties available under Sections 104 or 105 of this Code; and (3) the waiver of the parties’ rights to appeal the imposition of such penalty or penalties.

SEC. 47. Alternative dispositions – Form of agreement.

An agreement between the parties for disposition of the matter without trial shall be made in writing, subscribed to by both the Proctor and the accused. The signed writing may be simple and need not contain voluminous facts or any controverted assertions, but must contain the three essential terms set forth in section 46, supra.

SEC. 48. Alternative dispositions – Consent of complainant.

Before the parties sign an agreement for disposition of the matter without trial, the Proctor shall receive written confirmation (by personal delivery, first-class mail, or electronic notice) from the complainant, that the complainant consents to the disposition and penalty or penalties to be imposed on the accused under such agreement.

SEC. 49. Alternative dispositions – Filing decision.

Once a written agreement for disposition of the matter without trial is executed by the parties, on consent of the complainant, the Proctor shall file such written agreement in the office of the Grand Secretary in the same manner as a Trial Commission decision and record under Section 109 of this Code. Such filed agreement shall have the same force and effect as a written decision from the Trial Commission, and the Grand Secretary shall cause notice of the same to be delivered to the accused, the accused’s Lodge, and the Grand Master, pursuant to Section 111 below.

CHAPTER III

OBTAINING TESTIMONY OF WITNESSES

SECTION 60. Securing testimony of witnesses not physically before Commission.

Any witness desired by a party to the Commission may testify by means of an audio-visual technology accepted as adequately secure by the Trial Commission, witness and parties, in lieu of physical appearance before the Commission (a “remote witness”). When a witness is to be examined in such manner, the Chairman shall provide at least five days’ notice to the parties of his intention so to do before the date set for the proceedings of the Trial Commission.

SEC. 61. ***Taking testimony of a remote witness.***

If a witness testifies before the Trial Commission by audio-visual technology, in addition to the usual oath or affirmation, the Chairman of the Trial Commission shall also require said witness to certify that no person other than the witness is present in the room with them at the time that they provide their testimony.

CHAPTER IV
PROCEEDINGS BEFORE TRIAL COMMISSION

SECTION 80. *When accused fails to answer.*

If the accused shall fail to answer after the charges and notice required by Section 34 shall have been served upon him ***pursuant to paragraphs (a), (c), (d), (e), or (f) of Section 34, and a registry return receipt, or delivery signature*** signed by him or by some other person in his behalf shall have been received, ***or a read receipt shall have been received***, the Proctor shall notify the Chairman of the Trial Commission, who shall thereupon fix a convenient time and place for the Trial Commission to meet for the purpose of fixing the penalty to be imposed, at which time and place the Proctor shall be entitled to be heard.

If a member the Trial Commission, or any party or witness to be heard before the Trial Commission, must attend by means of any audio-visual technology, the notice shall include a link to the applicable audio-visual connection.

Notwithstanding the foregoing, if the Masonic Charges pending against the accused Brother are based, in part or in whole, upon his conviction of a felony crime involving moral turpitude, the Proctor and Chairman of the Trial Commission shall report the default to the Grand Master with the Chairman's recommendation of the penalty to be imposed, in lieu of any trial.

SEC. 81. *When accused served by* ***First Class Mail or alternate service fails to answer.***

If the charges and notice required by Section 34 shall have been served upon the accused ***pursuant to paragraphs (b) or (g) of Section 34***, and he shall fail to answer, the Proctor shall notify the Chairman of the Trial Commission, who shall thereupon fix a convenient time and place for the trial and shall designate some qualified Brother to act as counsel for the accused, to whom the Proctor shall furnish a copy of the charges together with notice of the time and place of trial, and such trial shall proceed as though a general denial had been interposed.

If a member the Trial Commission, or any party or witness to be heard before the Trial Commission, must attend by means of any audio-visual technology, the notice shall include a link to the applicable audio-visual connection.

SEC. 82. *When accused admits charges but pleads in mitigation.*

If the accused shall admit the charges, but plead facts in mitigation of punishment, the Proctor shall notify the Chairman of the Trial Commission whether the complainant is willing to accept as true the facts alleged in mitigation. If he is, the same shall be deemed true, and shall be considered by the Trial Commission in reaching its determination. If he is not, the matter shall be set down for hearing, on this issue only, in the manner provided in Section 83.

SEC. 83. *When accused denies charges or specifications or pleads exculpatory facts.*

When **the** accused denies charges or specifications, either in whole or in part, or shall have pleaded exculpatory facts which are not accepted as true by the Proctor, the latter, upon receipt of such answer, shall deliver to each member of the Trial Commission a copy of the charges and answer; and the Chairman shall thereupon fix a convenient time and place for the trial, notice whereof shall be given by the Proctor to the accused by ordinary mail or **electronic notice at least ten (10)** days prior to the date set if addressed to the accused within the State of New York, and at least twenty **(20)** days prior thereto if addressed **to the accused** elsewhere.

If a member the Trial Commission, or any party or witness to be heard before the Trial Commission, must attend by means of any audio-visual technology, the notice shall include a link to the applicable audio-visual connection.

SEC. 84. **Record of proceedings.**

The Trial Commission may employ a Master Mason as stenographer, who shall also act as clerk, and his reasonable charges shall be lawful expense of the trial and may be directed to be paid by such party and in such manner as the Trial Commission shall determine.

If a stenographer be not employed, **the statements of the parties and testimony of the witnesses shall be preserved by the Proctor by means of a contemporaneous audio recording of the proceedings, or, if the Trial is held by audio-visual technology, by a full video and audio recording of the proceedings.**

Notwithstanding the foregoing, no recordings by any stenographer or by any audio or video technology shall be made of the Trial Commission's deliberations on the evidence presented.

SEC. 85. *Counsel.*

The complainant in all cases shall be represented by the Proctor or by such substitute as the latter may select. The accused may defend in person, or he may, at his own expense, be represented by any Master Mason in good standing acting as his attorney.

SEC. 86. *Impeachment of witness.*

The credibility of any witness may be impeached.

SEC. 87. *How witnesses may testify.*

A witness who is a Mason shall testify by virtue of his obligation and without being sworn, but one who is not a Mason shall first be sworn before the **Chairman of the Trial Commission**, or, if he shall refuse to be sworn, shall affirm that the testimony he is about to give will be the truth.

SEC. 88. *Right of accused to confront witnesses.*

It is the right of the accused to be confronted with the witnesses against him in the presence of the Trial Commission except:

(a) where the accused has previously been tried upon charges embracing the same offense and it is shown to the satisfaction of the Trial Commission that a witness who testified at such former trial is dead, incapacitated, or cannot with due diligence be found within the State of New York, in which case his testimony may be read in evidence upon any subsequent trial of the same charges; or

(b) where a transcript of the witness' testimony is derived from the record of a public civil or criminal trial upon matters embracing the same underlying conduct as gave rise to the charged Masonic Offense, in which case such testimony may be accepted into evidence; or

(c) where the accused has failed to answer pursuant to Section 80 above, and the Masonic Charges pending against the accused Brother are based, in part or in whole, upon his conviction of a felony crime involving moral turpitude

SEC. 89. *Securing attendance of witnesses.*

The attendance, on behalf of either party, of a witness who is a Mason may be enforced by a summons, on which no seal shall be required, signed by the Chairman of the Trial Commission; but no summons shall be signed by the Chairman until it bears the name of the witness whose attendance is desired. Such summons may be served by mailing a copy to the witness **by first-class mail or electronic notice**, or by exhibiting to him the original and leaving with him a copy; and the original, indorsed by certificate or **affirmation** as provided in **Section 36** by the person serving it with the time and manner of service, shall be delivered to the Chairman of the Trial Commission.

SEC. 90. *Evidence — generally.*

The rules of evidence established and recognized in courts of law of the State of New York in the ordinary administration of justice, including those which relate to the admissibility of testimony and the competence of witnesses, should be observed so far as may be consistent with the primary purpose of Masonic discipline, but, in a case in which

the complainant has introduced in evidence the record of the judgment of conviction of a state or federal court, the accused may introduce in evidence a certified copy of the entire record of the trial in which such judgment was rendered.

SEC. 91. *Same — effect of conviction by state or federal court.*

If the Masonic offense charged is one of which the accused has been convicted in a state or federal court, a record of the judgment of such court, properly certified or exemplified, shall be presumptive evidence of the commission of such offense and sufficient to justify a conviction by a Trial Commission unless

- (a) the presumption of identity of person arising from identity or substantial identity of names be overcome by affirmative proof;
- (b) the presumption arising therefrom be overcome by affirmative proof tending to establish the innocence of the accused of the offense described in such record of judgment; or
- (c) it be proven that such judgment has been reserved or set aside.

Pending an appeal from such judgment of conviction in a state or federal court, the Grand Master may, in his discretion, stay the Masonic trial without prejudice to the proceedings theretofore had herein.

SEC. 92. *Same — standard of proof to be observed.*

The standard of proof to be observed by a trial commission in determining guilt or innocence shall be that the prosecution shall have the burden of proof of guilt by a fair preponderance of the credible evidence.

CHAPTER V DETERMINATION AND DECISION OF TRIAL COMMISSION

SECTION 100. *Determination — when accused denies charges or pleads exculpatory facts.*

Upon the conclusion of a trial pursuant to the provisions of Section 83, in a proceeding in which the accused shall have answered denying the charges, either in whole or in part, or shall have pleaded exculpatory facts, the Trial Commission, by a majority vote, shall determine his guilt or innocence and fix the penalty, if any, to be imposed.

SEC. 101. *Same — when accused served by **First Class Mail or alternate service fails to answer.***

Upon the conclusion of a trial pursuant to the provisions of Section 81, in a proceeding in which the charges and notice required by Section 34 shall have been served upon the accused **pursuant to paragraphs (b) or (g) of Section 34**, and the accused shall have

failed to answer, the Trial Commission, by a majority vote, shall determine the guilt or innocence of the accused and fix the penalty, if any, to be imposed.

SEC. 102. *Same — when accused admits charges but pleads in mitigation.*

Upon the conclusion of a trial pursuant to the provisions of Section 82, in a proceeding in which the charges are admitted and the accused pleads facts in mitigation the truth of which is in issue, the Trial Commission, by a majority vote, shall determine the truth of such issue and fix the penalty, if any, to be imposed.

SEC. 103. *Same — when accused personally served fails to answer.*

In a proceeding in which the accused fails to answer after the charges and notice required by Section 34 shall have been served upon him **pursuant to paragraphs (a), (c), (d), (e) or (f) of Section 34**, and a registry return receipt or **delivery signature** signed by him or by some other person on his behalf shall have been received, or **a read receipt shall have been received**, the Trial Commission, by majority vote, shall fix the penalty, if any, to be imposed.

Notwithstanding the foregoing, if the Masonic Charges pending against the accused Brother are based in part or in whole upon his conviction of a felony crime involving moral turpitude, the Proctor and Chairman of the Trial Commission shall report the default to the Grand Master with the Chairman's recommendation of the penalty to be imposed, in lieu of any trial.

SEC. 104. *Penalties Imposable upon Individual.*

A Trial Commission may impose upon an individual Mason any one or more of the following penalties:

- (a) Reprimand: the time, form and manner of delivery thereof to be determined by the Grand Master;
- (b) Fine;
- (c) Restitution;**
- (d) Suspension from all the rights and privileges of Masonry for a definite time;
- (e) Suspension from all the rights and privileges of Masonry until such time as a specified fine or restitution shall have been paid by him;
- (f) Suspension from specifically-determined rights and privileges of Masonry for a definite time**
- (g) Prohibition from holding specifically-determined office(s); or**
- (h) Expulsion.

SEC. 105. *Penalties Imposable upon Lodge.*

A Trial Commission may impose upon a Lodge any one or more of the following penalties:

- (a) Reprimand; the time, form and manner of delivery thereof, to be determined by the Grand Master;
- (b) Fine;
- (c) Payment of costs;

(d) Restitution; or

(e) Recommendation to Grand Lodge that the Lodge charter be suspended or forfeited

Notwithstanding the foregoing, such suspension or forfeiture shall not be declared except by action of the Grand Lodge at an annual communication thereof, at which the findings of the Trial Commission shall have been submitted.

SEC. 106. *Trial Commission to prepare written decision.*

After a Trial Commission has reached its determination in accordance with the provisions hereinbefore contained, it shall, with all convenient speed, cause a written decision to be prepared which shall embody its determination.

SEC. 107. *Form of decision.*

The decision of a Trial Commissioner required by **Section 106** must be signed by the trial commissioners concurring therein, must state its conclusion with respect to the guilt or innocence of the accused with respect to each separate charge and specification contained in the charges and must state the penalty imposed, if any, but it need not contain separate findings of fact or conclusions of law.

SEC. 108. *Dissenting report.*

If the decision of a Trial Commission be not unanimous, a dissenting trial commissioner may express his dissent therefrom, either at the end of the written decision or in a separate minority opinion signed by him.

SEC. 109. *Filing decision, record and exhibits.*

Except as provided in Section **110 below**, the Chairman of a Trial Commission **will deliver the Commission's original decision immediately to the Proctor, who shall then, with all convenient speed, cause said original decision, together with the minutes of all hearings, a copy of the audio and/or visual recording of the proceedings before the Trial Commission, and all exhibits submitted to the Trial Commission, to be filed in the office of the Grand Secretary.**

SEC. 110. *Same — recommending forfeiture of Lodge charter.*

If the decision of a Trial Commission shall contain a recommendation that the charter of a Lodge be forfeited, **the Proctor** shall cause its original decision to be delivered to Grand Lodge at its next Annual Communication for action pursuant to the provisions of Section 337 of the Book of Constitutions.

SEC. 111. *Notice of Decision to Accused, Lodge and Grand Master.*

Upon receipt of a copy of the decision and the notice of its filing as provided in **Section 109**, it shall be the duty of the Proctor to serve the accused with a copy thereof with notice of the date of filing and to notify the Lodge of which the accused is or last was a member, as well as the Grand Master, of the finding of the Trial Commission and of the penalty, if any, which it **has imposed**.

SEC. 112. *Effect of decision.*

The decision of a Trial Commission duly filed in the office of the Grand Secretary as provided in **Section 109** shall be final unless reversed or modified pursuant to an appeal taken in the manner hereinbefore provided.

CHAPTER VI
OPENING DEFAULTS

SECTION 200. *Right to open default.*

The accused, if he shall have failed to answer within the time hereinbefore specified for that purpose, or, having answered, shall fail to appear at the time and place fixed for trial, may apply to be relieved from his default.

SEC. 201. *Application how made.*

The application to open a default shall be by a written petition, forwarded to the Proctor and containing a statement of petitioner's reasons and excuses for his default and a statement of facts tending to indicate that he is not guilty of the charges.

SEC. 202. *Duty of Proctor **on Petition**.*

If the petition to open a default be received before the filing of the decision of the Trial Commission as provided in **Section 109**, the Proctor shall forward the same to the Chairman of the Trial Commission. If the petition to open a default be received after the filing of the decision of the Trial Commission as provided in **Section 109**, the Proctor shall forward the same to the Grand Master.

SEC. 203. *Oral argument not permitted.*

No oral argument shall be permitted on a petition to open a default.

SEC. 204. *Proctor may file statement in opposition.*

In transmitting a petition to open a default to the person authorized to pass thereon, the Proctor may submit a written statement in opposition thereto.

SEC. 205. *Decision on petition — by whom and how made.*

The granting or denial of a petition to open a default shall be determined by the Chairman of the Trial Commission or by the Grand Master, as the case may fall within the **applicable** provisions of **Section 202**, by indorsing the same with his determination and, in case of a denial, with his reasons therefor. If granted by the Grand Master, the

petition, with his indorsement, shall be transmuted to the Chairman of the Trial Commission.

SEC. 206. *Procedure if petition granted.*

If a petition to open a default be granted, the Chairman of the Trial Commission shall fix a time and place for trial as if no default had occurred.

SEC. 207. *Procedure if petition denied.*

If a petition to open a default be denied by the Chairman of a Trial Commission, his determination shall be filed with the decision of such Trial Commission when such decision is filed pursuant to the provisions of **Section 109**. If denied by the Grand Master, his determination shall be transmitted to the Proctor who shall file the same in the office of the Grand Secretary and notify the petitioner of the action taken upon his petition.

SEC. 208. *Denial of petition appealable.*

The denial of a petition to open a default shall be subject to review on appeal in the manner provided in Chapter VIII.

CHAPTER VII

COSTS

SECTION 300. *What are costs.*

Costs shall include only the actual expenses of a trial.

SEC. 301. *When payable by Lodge or Grand Treasurer.*

When a Trial Commission shall impose upon either party the payment of any costs and the same shall not have been paid within a reasonable time, the Grand Master may, by warrant, order that the same, or any part thereof, be paid by the Lodge **if said Lodge was found guilty of the charge(s) made against it by the Trial Commission**, or by the Grand Treasurer, but such payment shall not relieve the party against whom they were awarded and his continued refusal to reimburse the Grand Treasurer may be punished as **a separate** Masonic offense.

CHAPTER VIII

APPEALS

SECTION 400. *Masonic appeal defined.*

A Masonic appeal is a proceeding to review the decision of a Trial Commission, or of the Chairman of a Trial Commission or of the Grand Master denying a petition to open a default, in order to review errors of law or fact alleged to have been made by either.

SEC. 401. *Appellate authority.*

The primary appellate authority of Grand Lodge shall be exercised by the Commission of Appeals, chosen in the manner provided by the Book of Constitutions, which shall

report to each Annual Communication of Grand Lodge, for its approval, modification or disapproval, in respect of all appeals determined by it during the preceding Masonic year and the decision of Grand Lodge upon such report shall be conclusive upon all parties.

SEC. 402. *Sessions of Commission of Appeals — when and where held.*

When an appeal has been filed, the Commission of Appeals shall fix a suitable date for the hearings of such appeal, and all appeals shall be held in Masonic Hall in the City of New York.

SEC. 403. *What Appealable.*

An appeal may be taken from any decision of a Trial Commission as a whole, or from any part thereof, or from any decision denying a petition to open a default, except in a case in which it has recommended the suspension or forfeiture of a charter of a Lodge.

SEC. 404. *Who may appeal.*

An appeal may be taken by the Proctor or by the **convicted** Lodge or individual.

SEC. 405. *Designation of parties.*

The parties to a Masonic appeal are respectively the appellant, who seeks the review, and the respondent, against whom the review is sought.

SEC. 406. *Notice of appeal.*

An appeal may be taken by the Proctor by serving upon the accused Lodge or individual a written notice containing a detailed statement of the grounds of appeal, or by **the convicted Lodge or individual** by serving a like notice upon the Proctor.

SEC. 407. *Time within which notice served.*

The notice of appeal must be served on the **opposing** party within sixty **(60)** days of the service of notice of the decision and filing thereof as provided in **Section 111**.

SEC. 408. *Filing notice.*

A copy of the notice of appeal **with proof of service** shall be **filed by the appellant** in the office of the Grand Secretary within **thirty (30) days** after the service thereof, and such filing shall be deemed a jurisdictional requirement, the failure to comply with which shall result in a dismissal of the appeal.

SEC. 409. *Extension of time not permitted.*

There is no authority for any extension or variation of the time for serving and filing **the notice of appeal** fixed in Sections 407 and 408.

SEC. 410. *Stay of execution pending appeal.*

Upon application of appellant after service of the notice of appeal, the Grand Master may, in his **absolute** discretion, stay the execution of sentence pending the final disposition of the appeal.

SEC. 411. *Transmitting papers to Chief Commissioner of Appeals.*

Upon the **appellant's filing** of a copy of the notice of appeal as provided in Section 408, the Grand Secretary, with all convenient speed, shall transmit all papers, **exhibits and recordings** pertaining to the case to the Chief Commissioner of Appeals.

SEC. 412. Transcription of record on appeal; costs.

The Grand Secretary shall prepare a written transcription of any audio/video recordings of the Trial Commission proceedings at the cost of appellant and transmit such written transcript to the Chief Commissioner of Appeals pursuant to Section 411 above. The Grand Secretary shall promptly deliver an invoice for such transcription costs to the appellant, if appellant is a convicted Lodge or convicted Brother. If the appellant fails to remit payment for such transcript to the Grand Secretary within thirty (30) days of presentation thereof, the appeal shall be summarily dismissed as not perfected.

SEC. 413. *Briefs and written argument.*

Within thirty (30) days of the filing of a copy of the notice of appeal as provided in Section 408, the appellant shall serve his written brief or argument upon the respondent and, at the same, time shall **file three (3)** copies thereof with the Grand Secretary. Within **thirty (30) days** thereafter, the respondent shall serve his **written** brief or argument upon the appellant and file **three (3) copies** thereof with the Grand Secretary. **Notwithstanding the foregoing**, failure of either party to do so, shall not prevent the Commission of Appeals from disposing of the appeal.

SEC. 414. *Method of determining appeal.*

An appeal shall be determined on the record of the case as filed in the office of the Grand Secretary, the briefs and written arguments of the parties, if any shall have been filed, **and upon** the oral argument of either party, if desired by him, who has filed a brief or written argument as provided in Section 414.

SEC. 415. *Decisions Permissible.*

The decision of an appeal shall be affirmance, modification of sentence, or reversal, but no decision shall be reserved for technical irregularity or technical violation of the rules of evidence unless injustice has been done by such violation. In case of reversal, a new trial may be ordered in a proper case, or the Commission of Appeals may recommend such judgment as may be just and proper to the end that complete justice may be done without requiring a new trial. A copy of its decision shall be given to the Proctor with all convenient speed, whereupon the Proctor shall notify the accused and the Grand Master of the same.

SEC. 416. *Effect of reversal.*

Reversal of a decision suspending or expelling the accused, when approved by Grand Lodge as provided in Section 401, shall have the effect of restoring him to all the rights and privileges of Masonry, including membership in the Lodge of which he was a member at the time the decision of the Trial Commission was rendered.

CHAPTER IX RESTORATION

SECTION 500. *Restoration a privilege.*

After the expiration of **three** years from the commencement of a sentence of expulsion, a repentant Brother may be restored to Masonic rights and privileges, but restoration is a voluntary act on the part of Grand Lodge and cannot be claimed as a matter of right.

SEC. 501. *Petition for restoration.*

An application for restoration is by petition to **Grand Lodge**, which must be filed with the Grand Secretary at least sixty **(60)** days before the Annual Communication and must contain a copy of the charges upon which the petitioner was tried and a statement of the grounds upon which he seeks restoration.

SEC. 502. *Notice to Commissioners and Aggrieved Lodge.*

At the time of filing his petition as provided in Section 501, the petitioner shall give notice thereof, in writing, to the surviving members of the Trial Commission which imposed punishment upon him and also to the Aggrieved Lodge where the punishment imposed was because of false statements in a petition for membership. An Aggrieved Lodge is defined for these purposes to be, and to be limited to, the Lodge to which the erring Brother seeking restoration petitioned for membership and which duly rejected him.

SEC. 503. *Favorable Recommendation — when required.*

Except as provided in the next Section, no action can or shall be taken on a petition for restoration unless it be accompanied by the favorable recommendation **of all such Lodges** of which the petitioner was a member, or had last been a member, at the time of his expulsion, adopted at a Stated Communication of **each such Lodge** to which its members had been duly summoned and also by the favorable recommendation of the Aggrieved Lodge, if there be such, duly adopted in like manner.

SEC. 504. *Same — when not required.*

The filing of a favorable recommendation of the petitioner's former **Lodge(s)** or of an Aggrieved Lodge is unnecessary if proof be furnished that notice of the intended

application, in writing and of **not less than sixty (60) or more than ninety (90) days**, has been served on such Lodge(s) or that the Lodge(s) no longer exist.

SEC. 505. Reference of petition and action thereon.

A petition for restoration, if accompanied by the demonstration specified in Section 503 or Section 504, shall be referred to the Grand Lodge Committee on Restorations and the adoption by Grand Lodge, by a majority vote, of a favorable report of that Committee restores the petitioner to the rights and privileges a non-affiliated Mason without further action.

SEC. 506. Termination of suspension.

The penalty of suspension inflicted by a Trial Commission may be terminated at any time by Grand Lodge or the Grand Master and such termination immediately restores the Brother to all his former relations with his Lodge and the Craft.