

MEMORANDUM

To: Fraternal Order of Police State Lodges

CC: Patrick Yoes, National Secretary, Grand Lodge Fraternal Order of Police

From: Larry H. James, Esq., General Counsel, National Fraternal Order of Police

Date: March 1, 2005

Re: Use and Protection of Fraternal Order of Police Trademarks

State and Subordinate Lodges often inquire as to whether they are permitted to make use of the name, insignia, logos and marks of the Fraternal Order of Police. State and Subordinate Lodges often desire to dispense with the requirement of obtaining permission from the Grand Lodge for use of the name, insignia, logos and marks. This memorandum will address these issues and may be used for future reference as questions arise.

The Grand Lodge Fraternal Order of Police owns several federally registered trademarks. These include, but are not limited to, the words "FRATERNAL ORDER OF POLICE," the letters "FOP" and the five-sided star logo that is widely associated with the Fraternal Order of Police. These and other trademarks belonging to the Grand Lodge are collectively referred to as the "Marks." The Marks have always been a valuable financial asset to the Grand Lodge. Revenue earned from licensing the Marks allows the Grand Lodge to minimize national dues and continue to provide extensive services and benefits to the membership.

Ownership of the Marks is governed by the Constitution and By-Laws of the Fraternal Order of Police. Article One of the Constitution provides as follows:

Section 2. The National Board of Trustees shall have the sole and exclusive right to authorize, control, license and restrict the use of the name, insignia or emblem and mark, trademark or service mark of the Fraternal Order of Police. The National Secretary shall police the trademark of the Order and shall grant or refuse to grant permission to use the trademark of the Order as hereinafter set forth or as may be, from time to time, prescribed by the National Board of Trustees.

Section 3. State and subordinate lodges, by virtue of their affiliation with the Grand Lodge, shall have the right to use the name, insignia, emblem and mark, trademark or service mark of the Fraternal Order of Police in order to signify or denote their affiliation therewith. In the case of prospective for profit uses of the name, insignia, emblem or mark, trademark or service mark of the Fraternal Order of Police, or such other use that may place such state or subordinate lodge in

competition with the Grand Lodge, such permission may be withheld by the National Board of Trustees.

Article One of the By-Laws provides:

Section 1. No member or state or local lodge shall use the name or insignia of the Fraternal Order of Police except as authorized by the Constitution, the National Board of Trustees or set forth herein.

Section 2. The unauthorized use or the abuse of the name or insignia of the Fraternal Order of Police or the infringement of a trademark thereof by a member, local lodge or state lodge, shall be grounds for discipline, including suspension, expulsion, removal from office, or revocation of lodge charter.

Section 3. The National Secretary shall promulgate such rules as he deems necessary to protect, police, regulate and license the trademarks of the Order and to ensure that the name and insignia of the Order is used only for the purposes established by and in accordance with the authority granted by the National Board of Trustees.

While the Constitution and By-Laws govern the use of the Marks by the Grand Lodge, as well as State and Subordinate Lodges, federal trademark law applies to the public at large and influences the Grand Lodge's policies relative to the Marks. Under federal trademark law, the owner of a trademark, service mark, or collective membership mark (such as "FOP" or "FRATERNAL ORDER OF POLICE") must police the nature and quality of all goods and services sold or rendered under the mark by third parties. This would include State and Subordinate lodges or third party manufacturers. If the owner of a trademark, service mark, or collective membership mark fails to police the mark, the owner will be deemed to have abandoned its rights to the mark. This would obviously be a terrible result for the Fraternal Order of Police. If the Fraternal Order of Police were deemed to have abandoned its Marks, any third party could utilize - and profit from - the abandoned Marks.

As discussed above, the Constitution and By-Laws place with the National Secretary the responsibility of policing the Marks. The National Secretary's Office has established policies regarding the use of the Marks by State and Subordinate Lodges. As spelled out in the Constitution, State and/or Subordinate Lodges may use the Marks for the limited purpose of denoting their affiliation with the Grand Lodge. In all other situations, the Marks may only be used pursuant to a License Agreement executed by and between the Grand Lodge and the State or Subordinate Lodge. Once a License Agreement is executed, the Marks may only be used as described in the License Agreement. A License Agreement does not always require that the State or Subordinate Lodge pay a fee.

Examples of uses of the Marks which State or Subordinate Lodges in good standing may use without further consent from the National Secretary's office include:

- Lodge letterhead
- Lodge business cards
- Lodge signage
- Lodge applications for membership
- Lodge civic sponsorship for charitable events

On occasion, a State or Subordinate Lodge may wish to use the Marks on other products, such as clothing, bumper stickers, pins, watches, and the like. Because the Grand Lodge sells this merchandise, State or Subordinate Lodge sales of the same merchandise may place the State or Subordinate lodge in competition with the Grand Lodge. In this instance, permission to use the Marks may be withheld by the National Board of Trustees. Depending on the circumstances, however, permission may also be granted. The important point is that **permission must be sought**. It is worth noting that State and Subordinate Lodges may do better to purchase through the Grand Lodge any items bearing the Marks, as the Grand Lodge often gets better prices for purchasing in large volume. The bottom line is that **all for-profit uses of the Marks must be licensed by the Grand Lodge**.

It is doubly important that a license is sought by and royalties charged to unaffiliated third parties using the Marks. This includes for-profit and non-profit uses. For example, a license must be obtained by a party engaging in the manufacture or sale of items bearing the Marks, and the same is true of a professional fund raiser hired to raise funds for a State or Subordinate Lodge's non-profit purposes. The Grand Lodge should be notified immediately if there is any suspicion that an unaffiliated third party is engaged in the unauthorized manufacture or sale of items bearing the Marks. Persons engaged in the unauthorized manufacture or sale of items bearing the Marks are stealing from the Fraternal Order of Police, and jeopardizing the organization's valuable trademark rights.

The National Secretary has the duty to police the Marks, and certainly appreciates any help in this regard. The Grand Lodge has vigorously pursued unauthorized uses of the Marks over the past several years. Most unauthorized users cease their use immediately when contacted by counsel. In those situations where court action is necessary, the Grand Lodge has been 100% successful in ending unauthorized uses.

Perhaps the simplest rule of thumb is this: The only purpose for which a State or Subordinate Lodge may use the Marks without first seeking permission is to signify or denote affiliation with the Grand Lodge. All other uses require permission. If there is any question as to whether a license should be used, it is always best to consult with the Grand Lodge.