INTRODUCTORY STATEMENT
FOR THE
PRESIDENT OF A DISCIPLINARY HEARING PANEL

Call to Order.

Comrades, please take your places.

This proceeding shall be conducted pursuant to Article IX of the Bylaws and the Manual of Procedure of the Veterans of Foreign Wars of the United States.

This proceeding is a Disciplinary Action Hearing for the accused, Comrade(s) Steve Mueller and Stephanie Pino formally of Defunct Post No.12162, located in Pleasanton. This action was initiated by the preparation and delivery of Special Order 27 and 28 consisting of Form DA-1, and Form DA-2 Charges and Specifications, signed incident report, the investigative report, and Request for Hearing (Form DA-6) in accordance with Section 903 of the National Bylaws and Manual of Procedure. As outlined in Special Order No. 27 & 28 issued by Department, and signed by Department Commander Inge Conley. The accused have invoked their right under the Bylaws to request a Disciplinary Hearing.

Special Order No. 207 dated May 14, 2019, issued by Commander-in-Chief Vincent B.J. Lawrence appointed a Disciplinary Hearing Panel. That Order reads as follows:

(Read the Special Order appointing the Disciplinary Panel (DA-3). If there has been a later order issued changing the detail for the Panel, the President should also read the new order or at least the names of any substituted members or other changes.)

The primary purpose of this hearing is to afford Comrades Steve Mueller and Stephanie Pino notice of the Charges and evidence against him/her and give him/her an opportunity to respond to those Charges and that evidence.

This hearing will be open to spectators.

Before we get too far down the road, I would like to explain our process for today's hearing.

As indicated in the order appointing a disciplinary hearing panel, I have been designated to act as President of the Panel. In addition to having the same duties, powers and privileges as other members of the Panel, I am charged with maintaining order and giving the necessary directions for the conduct of this Hearing. Questions and objections should be directed to the President. The President will rule upon all questions concerning the admissibility of evidence, the competency of witnesses, continuances, adjournments, recesses, motions and orders as well as on the propriety of any argument or statement of counsel. I may consult with other members of the Panel before ruling upon some matters. If a member of the panel objects to the ruling, that member may request that a vote be taken by the Panel on that ruling.

Under our procedures, it is not necessary to have a verbatim transcript of these proceedings. A videotape or tape recording is sufficient. We will be using a videotape and tape recorder. I would ask that all participants cooperate in not talking over one another and in using their best effort to assure that the proceedings are properly recorded. Be sure you identify yourself when you first speak on a matter. The witnesses will identify themselves as part of their testimony. Exhibits and other documents are always referred to by some identifying information such as the exhibit number or the date of the document so people listening to the tape will know who is talking and what they are talking about. These proceedings are not intended to be held as a formal court proceeding. We are all not lawyers and this isn't a courtroom; however, we do have some rules to follow that are intended to help provide for a full and fair hearing and to move this proceeding along in an orderly and efficient manner. Persons to be called as witnesses, will be sequestered until called upon. Once they have provided their testimony and it's been determined that they are not subject to being recalled by either the prosecutor or the defense, they shall be dismissed.

The first order of business will be the selection of the Panel. The entire panel shall initially be seated. Each side may challenge any member or members, but those members may be removed only for good cause. Good cause includes, but is not limited to, prejudice for or against a party, financial or other interest in the outcome or inability to afford an impartial hearing. The challenging party shall state the reasons upon which that party believes good cause exists. When a member of the panel is challenged for cause, the President of the panel will decide on the question. No further panel members may be excused for cause when the effect is to reduce the number of the panel members below three.

After the Panel is selected, they will swear to judge the case fairly and impartially and will be seated.

After the Charges are read and the defendant has pleaded, the defense counsel will have an opportunity to raise and have considered by the panel any objections he has to the procedure as far as the initiation of the Charges, the adequacy of the Charges to fairly inform the defendant of the offenses, and the conduct of the hearing to that point. Hopefully, any procedural problems can be straightened out to everyone's satisfaction at the time.

After that, each side, beginning with the Prosecutor, will have an opportunity to make a 10 minute[1] opening statement outlining what each believes the issues are and what each expects to show by the evidence. (If there is more than one defendant, defense counsel will be given the same amount of time for each.) After opening statement, the prosecutor will introduce his evidence. The prosecutor must introduce evidence that will support the Charges and Specifications in order to prove an offense.[2] When the prosecution rests, the defense may proceed to introduce evidence. Each side may then present rebuttal evidence, with the prosecutor going first. Counsel for both sides shall have the opportunity to cross-examine each witness. If an objection is made, the President will rule on that objection, consulting with the members of the Panel as necessary.

After all of the evidence is completed, each side, will have an opportunity to make a 10-minute closing argument.[3] The prosecutor will go first and may save a part of his allotted time for rebuttal.

After closing arguments, the Panel will retire and decide the case.

This will conclude my introductory statements. Are there any questions?

If not, then we shall proceed with the Panel Selection.

(The following outline will guide you through the Disciplinary Hearing, but be sure to refer to Section 903 – Procedure for Disciplinary Actions.)

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[1] The Panel can decide how long to allow. Five to ten minutes would usually be sufficient.

[2] The President should make sure that the prosecutor realizes he has an obligation to demonstrate, with testimony or other evidence, even if it consists only of testimony by a witness of what the defendant said that might constitute an admission of the offense. The prosecutor cannot simply state or argue the facts to the Panel.

[3] Again, the Panel can decide how long to permit for closing arguments. Additionally, all parties should be reminded that the Disciplinary Panel has an obligation to receive, review, and evaluate the testimony of all parties. If testimony or evidence is presented indicating that additional violations of the Bylaws or Manual of Procedure may have occurred, or obviously false statements have been placed into the record, they will be referred to the Department Commander, or Commander-in-Chief for further review and action as appropriate.