

VETERANS OF FOREIGN WARS OF THE UNITED STATES OFFICE OF THE ADJUTANT GENERAL
BONDING OF ACCOUNTABLE OFFICERS

The VFW National By-Laws, Article VII, Section 703 - Bonds, states:

"Each officer accountable for funds or property pursuant to any provision of these By-Laws shall be bonded with an indemnity company as surety in a sum at least equal to the amount of the liquid assets for which, so far as can be anticipated, he may be accountable. The bond premium shall be paid from the funds of the Veterans of Foreign Wars of the United States, Department, District, County Council or Post, as the case may be, to which each officer is accountable."

"The bonds of such accountable officers, in amount and as to surety, shall be approved by their respective units and held by their respective Commanders. The Commander of each unit shall be responsible for the proper and adequate bonding of all accountable officers in his unit."

Although the language of the above section is quite specific, experience has shown a need for greater clarification as to its application, the degree of protection offered, and procedures in establishing a claim.

The reference to ACCOUNTABLE OFFICER is primarily to the position of Quartermaster, although it might very well in some Posts extend to an Assistant Quartermaster, Club Manager, etc. From a practical standpoint, anyone who has access to funds should be bonded; particularly club employees and others who regularly handle cash. The premium rate for a club employee is higher than for a Post officer.

Just about every Department has an arrangement with an indemnity or surety company to handle the bond requirements of its Posts under a FRATERNAL POSITION BOND. The cost of such a bond is relatively low and there is a particular advantage in having the position bonded rather than the individual in that it is not necessary to change records each time there is a change in office. The bonding company may, however, require personal information on the individual officer in cases where an exceptionally large bond is carried.

The bond only guarantees the HONESTY of the person holding the bonded position. Before any indemnity is paid, it must be proven that the money has been lost through the fraudulent or dishonest acts of the bonded person. It does not cover money lost through burglary, careless handling, or mismanagement. It does not take the place of insurance in any way.

The By-Laws only give a rough guide as to how much the individual should be bonded. There may be only \$2,000 in the Post treasury - but this may be because the Quartermaster has been systematically skimming off thousands of dollars before the money is banked. Usually the money is stolen before it goes into the bank, but it may also disappear because of the conversion of bonds, savings, or investments to cash. Anything which is easily converted to cash should be protected by a bond.

Only the person holding the bonded position is covered by the bond. Funds stolen by an Assistant Quartermaster are not protected by the bond on the Quartermaster. If the Assistant Quartermaster handles funds, he must be covered by a bond on that position.

The fact that an accountable officer is already bonded by his regular employer does not protect the VFW. A County Treasurer, for instance, may be bonded for \$100,000 or more but this only protects the County from his dishonest acts. If he steals from the Post in his capacity as Post Quartermaster, the Post cannot collect on his County bond.

All bonding companies require reasonable care on the part of the insured. Regular audits and controls on the individual are presumed to be a part of the agreement. Claims filed reveals that most defalcations occur where the Post Trustees do not conduct regular audits, do not take the precaution of obtaining monthly statements directly from the bank, or fail to verify the books against other records.

PROCEDURE IN SUBMITTING INDEMNITY CLAIMS:

The insured Post has the responsibility of reporting a loss just as soon as possible after it is discovered. The fraternal position bond form requires the Post to give all reasonable cooperation in determining details of fact to substantiate the claim and in attempting to make recovery from the defaulting person.

If the bond is held through a local agent, that agent should be informed immediately when a loss is discovered. If the bond was obtained through the Department, Department Headquarters must be notified so the information can be passed on to the proper person.

The Post or other insured unit will be required to show evidence of loss and submit a "proof of loss" form with any further information which may be required. This form will be provided by the bonding company or its agent. The final claim should not be submitted until it is substantiated, preferably through an audit by a qualified accountant.

The bonding company may itself follow up the claim or it may have an outside attorney or adjustor gather details on the claim and on the defaulting officer or employee. It will probably attempt to recover losses from the defaulting person. The Post, in accepting the bonding or surety company's check, passes on its right of recovery of Post funds to the bonding company.

Because of variations in circumstances and in the laws of the states, it is recommended that the Post seek the advice of an attorney in determining whether criminal charges should be pressed. Such action is not generally required to fulfill the terms of the bonding agreement.

The funds of a Post are the responsibility of its officers. If dishonest acts result in a loss to the Post, the Commander and other officers are obligated to attempt recovery. It is generally better for all concerned to present a claim to the bonding company and let them arrange recovery from the individual rather than to try to do so on the Post level.

The diversion of Post funds to personal use is a serious offense and one with which the Post should have no sympathy. A person who has stolen money from his Comrades has no place in the Veterans of Foreign Wars. The Post is entirely justified in taking disciplinary action against the miscreant and removing him from membership.

INSPECTION REPORT DISCREPANCIES

The Post Inspection Program is designed to be a useful management tool. Properly administered, it provides early warning of potential trouble spots which can develop from failure to adhere to the requirements contained in the Manual of Procedure.

To require every Post throughout the nation to operate in the same manner and maintain the same records would be impractical. However, to require certain safeguards for the control of funds and certain common administrative procedures is not only practical, but also good business

sense. To that end, the following discrepancies, together with the possible consequences of not requiring adherence to the Manual of Procedure requirements are listed:

- **QUARTERMASTER BOND OF INSUFFICIENT AMOUNT.**

Liquid assets are defined as cash on hand/in the bank and other negotiable instruments readily convertible to cash. The Quartermaster must be bonded in the amount of the liquid assets to which he has access. If Post funds are mishandled, reimbursement by the bonding company will be for the amount of the bond, not the total loss.

- **Quartermaster not bonded.**

Post funds are not safeguarded, and if misappropriated, will not be replaced.

- **Post Commander not countersigning, or pre-signing checks.**

Specifically charged with that responsibility by Section 218, Manual of Procedure. Pre-signing dilutes Commander's control over funds.

- **Club funds are not in custody of Post Quartermaster.**

Article 709 requires that funds of all subordinate units (the Club is a subordinate unit) be in the custody of the Post Quartermaster in order to again provide safeguards in the handling of monies belonging to the Post. Don't forget that the Club Manager should also be bonded.

- **Failure to file required IRS forms.** IBS requires the filing of Form 990. Failure to do so could result in a severe fine. Check with the State Adjutant for specific IRS requirements in your area.

- **Liability insurance coverage** - The insurance protects the Post from litigation originated by someone who suffers a real or imagined injury while on or in Post property. With the courts making very substantial awards in liability lawsuits, adequate coverage is recommended. Depending on the size of a Post, and its net worth, high coverage limits may be desirable.

- **Trustees do not audit books regularly.** Only way to determine if funds are being mishandled. Quartermaster bond may be invalidated because of failure to conduct regular audits.

- **Post incorporation** - Financial responsibility laws, as interpreted by the courts, can be dangerous to the financial well-being of members of unincorporated Posts. They, individually and collectively, can be sued and all their personal assets disposed of to satisfy a judgement against the Post. Incorporating under Article 708, Manual of Procedure and the laws of your state, will release members from individual financial responsibility and only the assets of the Post are then available to satisfy a judgement. I urge you to institute a program to have all your Posts incorporated.

Thomas L. Kissell
Director, Administrative Operations
tkissell@vfw.org