

## **April 2025 Article-Justin R. Wall, National Ombudsman “Let’s be frank”**

210.2! That was the number on my scale this past Monday when I weighed myself. I own that number. All of it! Because of the choices that I made, and my actions (and quite honestly, lack of action), I have found myself to be in this position where my clothes are snug and I dread taking the stairs. It wasn’t but 6 years ago that I could run a half marathon and have no issues, no prep, no training runs, and no worries.

Like me owning my weight, we, as the collective American Mensa, Ltd. (“AML”), own the situation we find ourselves currently in. As you are all surely aware, there has been major upheaval in our AML leadership due to actions taken by the National Hearings Committee (“NHC”) with the removal of ten individuals (the “10”) from their governance roles on the American Mensa Committee (“AMC”). Why is that? Well, let me explain.

First, before I get into my analysis and recommendations, I believe it is imperative that I put forth the following disclaimer. I am an attorney. When I consult with my clients, I am straightforward, blunt and to the point. I tell them what they need to hear, not what they want to hear. I am direct, forward and don’t sugar coat things. With that, it is my intention to do the same for you.

Here is my take on our situation based upon the bits and pieces of information that I have been able to gather from numerous individuals involved in the matter and the membership collective. Please note that this is my understanding of what unfolded and how we got here. As of this writing, nobody has been able to provide a definitive statement as to the *actual* facts of what occurred, the *actual* violation of the By-Laws, what was discussed, the decision-making process, the NHC “trial” etc. due to the glorious “confidentiality handcuffs”. More on that topic later.

Please also note that it is not my intention to call anyone out in this analysis, nor is it to assign blame to particular individuals. Due to that, I will not utilize particular individual’s names in my analysis below, assign blame to any particular individual(s), or call out any particular individual(s) for their actions. My job, as your National Ombudsman, is to “promote the general welfare of American Mensa” and that is my intent in providing to you my position and recommendations going forward in how we can resolve this matter.

### **Current State of the Union:**

There is a lot of distrust and animosity between the AML membership, the AMC, the NHC and the overall governance process of our organization. In all my years of serving on various Boards and providing legal counsel to the same, I can strongly assert that we, as the collective AML, have a serious issue at hand with the distrust, lack of confidence, lack of transparency, and overall dissatisfaction with AML leadership in our organization. We must, as an organization, be ready and willing to acknowledge what has happened, learn from the situation, rectify it, and move forward.

### **What Happened (Best as I Can Ascertain):**

Certain individuals that were serving on the AMC took “offense” to another AMC member’s past/current behaviors/statements/actions. This “offender<sup>1</sup>” served as role as one of the Executive Committee “ExComm” members. These individuals previously tried to informally/formally resolve the dispute through various channels, but were not successful in fixing the dispute. As such, one member of the AMC made a Motion to remove the “offender” and said Motion was seconded/supported by nine other members of AMC. After being “seconded” the “offender” resigned from his/her position before a vote on the Motion could be taken as to the actual removal of the “offender”. None of these actions were previously-placed on the AMC’s meeting agenda.

Due to these actions, certain individual(s) brought forth “charges” that “Acts Inimical” were committed by the “10” in their motion/support to remove the “offender”. The matter was then referred to the NHC, who conducted a “hearing”, i.e. trial, and then issued its decision removing the “10” from their elected/appointed positions on the AMC and banishing them from serving in all elected/appointed positions for a defined period of years.

### **What Got Us Here:**

So, this begs the question, how did we get to this point? Well, the By-Laws, and the related Actions Still In Effect (“ASIES”), are the major governing documents of AML. These documents, over the years, have been added to, subtracted from and modified and essentially provide the structural pillars of this situation. These documents have established a definition of what an “Act Inimical” is supposed to be and procedures for addressing how “Acts Inimical” are to be dealt with. In addition, AML leadership has incorporated arcane confidentiality agreements that have created “handcuffs” on the leadership of our organization and have caused much confusion and apprehension to share information so that the membership can be readily aware of the actual facts, and not just conjecture, about what actually has happened.

### **My Position:**

I must admit before being elected to this position as your National Ombudsman, I really had not put much thought into what an “Act Inimical” actually was. It wasn’t until I started serving in this role that I learned how much that we, as an organization, really love to throw around this phrase and make accusations of committing the same.

At first blush, to a non-Mensa “layperson”, one would probably equate an “Act Inimical” to an “Act of Treason”. Some action, so egregious, so serious, that the organization could have been seriously harmed, or was seriously harmed. Ultimately, the *mens rea* behind any “Act of Treason” is to inflict lasting and permanent harm on the organization. In my opinion, there are very few things that a member, or leader, of AML could undertake that would clearly demonstrate what an actual “Act Inimical” is.

Assuming what I believe occurred is what actually did occur, it is my position that the actions of the “10” did not rise to the level of “Acts Inimical”. In Section 10 of the ASIEs, “Acts inimical to the society” are defined as “deliberate acts that are harmful to, or result in harm to, Mensa.” “Acts Inimical” is further defined to include, but not be limited to, nine (9) articulated definitions. Looking at these provisions, it would appear to me that my belief of “Acts Inimical”

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<sup>1</sup> I am using this wording for clarifying parties’ roles in this matter and is not meant to assign blame to any particular individual.

falls squarely in line with a layperson's definition of "Acts of Treason" and requires a high degree of *per se* mal-intent and harm to AML.

Unfortunately, we as AML, have somehow taken what should be a very strict definition of "Acts Inimical" and have essentially weaponized this term. As it sits right now, essentially anyone that claims to be hurt or offended by the actions of another can file a complaint with the NHC that the "offender" has committed an "Act Inimical". The accused then is afforded a "trial", albeit a secret and clandestine one that is not open to the membership, not able to be discussed with anyone, the transcripts of the same are not made available to the membership and the decision issued by the NHC to remove or banish persons from office is not "appealable" in the traditional sense as it is a final decision.

Let me give you an extreme example of what an abuse of this process could look like. I would note that in my duties thus far as your National Ombudsman, I have tendered multiple Requests for Investigation ("RFI") to the various members of the NHC and the AMC. In my RFIs, I requested the parties provide me with very specific information so that I could ascertain exactly what occurred in removal of the "10" from their respective positions.

In general, the collective response that I have received back was "Due to confidentiality provisions...." no specific information pertaining to the "who, what, why, where and when" could be provided to me because of these confidentiality agreements and if the party did provide me with specific confidential information, that disclosure would rise to an "Act Inimical" as that would involve violating the By-Laws, ASIEs, and/or previously-executed confidentiality agreements.

I would note that *every single* "no comment" response that I have received from the NHC, AMC, and others that hold this information, rise to the level of an "Act Inimical" as is what is believed to be the current definition of the same. These "no comment" responses could result in the filing of charges of "Acts Inimical" by me and the removal of the person from not only their role in the AMC and NHC, but also their membership in AML.

How is that you ask? Well, I would direct your attention to Article VIII, Section (3)(d), "[t]he National Ombudsman has the the right to the documents or other written materials concerning any matter received for review and decision, without exception. Every member, employee and entity of Mensa shall cooperate with the National Ombudsman by furnishing information or documents directly to the National Ombudsman." [Emphasis added.]

It is my interpretation of this provision that if I ask a person to provide me information and/or documents, I have the right to get that information regardless of whether or not that person signed a confidentiality agreement nor how the person garnered the information or documents. The person's refusal to provide me with this information directly violates very specific provisions of Article VIII and prevents me from performing my duties as previously discussed. Their actions in refusing to cooperate directly affect the betterment of AML and clearly should be "Acts Inimical" and more specifically as defined in Section 10(3) of the ASEIs, which would entail interfering with my duties as your National Ombudsman. I would thus be well within my right to bring forth "charges" referring every responding party to my RFI's to the NHC due to their actions in failing to comply with my requests for information. I would have the ability to ask for the removal the entirety of AMC, NHC, the "10" and any other person that fails to

comply my requests. Clearly, this would be an absurd result, but is in line and allowable with our policies as they now stand.

Let me provide you with yet another example of the absurdity of the “confidentiality” handcuffs that we as an organization have placed upon our leadership and the potential effects of the same.

As it sits right now, the confidentiality provisions make absolutely no exceptions for complying with any state or federal rules regarding providing sworn testimony and/or responding to discovery requests. It is my understanding that there could be potential litigation coming forth from the “10” due to the previously-described events that have unfolded. Assuming members of the AMC, the NHC, or the “10” are placed in the position have having to provide sworn testimony, either in court, or via a deposition, each of these persons are now faced with the following quandary: answer every question posed to them, violate their confidentiality agreements and the governing documents, have charges of “Acts Inimical” filed against them for violating said confidentiality agreements, and be banished from the kingdom. Or, face contempt, discovery violation sanctions, and/or go to jail for refusing to answer these questions as part of the state or federal litigation process. Again, the confidentiality provisions, as they now exist, create this dilemma and would produce an absurd result.

In regards to confidentiality provisions, I certainly understand and see the need for the same in certain circumstances. I also understand the need for confidentiality in executive sessions of AMC wherein certain sensitive matters are being discussed, such as impending litigation, personnel matters, and certain strategic planning sessions. But, having said that, I in no way, shape, form or manner believe that anything the NHC does in their role should be kept confidential. The NHC is essentially serving as a tribunal in determining the “guilt” of the party before it. This process deserves the “sunlight” of the membership being able to attend, review and know what is going on. The way the NHC functions now is essentially a secretive tribunal with ultimately no accountability to the membership for its actions. We, as the AML membership, if placed in situations where we stand accused of an AML “crime” should demand the same respect and rights in our organization as those afforded by our state and federal constitutions.

Furthermore, it is my opinion that the “10” were acting in their official capacities as elected/appointed members of the AMC. In those roles, they made a Motion, seconded and supported said Motion, but did not vote on said Motion, for an action that they believed was for the betterment of AML. Their collective action was done solely in their capacity as an AMC member and in no shape form or manner rose to the level of an “Act Inimical”. When serving on the AMC, your number one job is to make decisions that you believe are for the betterment of the entire AML body. You should not have to hope and pray that your actions, in providing corporate governance, will lead to your removal from that position or your membership in AML being suspended or terminated.

Ultimately, what has occurred was a corporate governance matter and a disagreement as to how to resolve what was believed to be a major personality conflict affecting the ability of the AMC members to work together as a cohesive unit. What should have occurred was an agenda item put forward to address the “offender” and how the issue could be resolved from an AMC level. Ideally, as this is essentially a “personality” matter, the AMC could have held an executive session in order to allow the AMC to work these issues out, in private, or utilized the services of an independent mediator to help the collective group reach resolution of their differences. Had

this not worked out, any of the “10” could have sought a “recall election” of the “offender” as described in Article VI, section (8) of the By-Laws.

### **My Recommendations:**

Folks, my ultimate recommendation would be to reinstate the “10”, but unfortunately, we have no methodology for doing so. The NHC has “spoken” and their “death knell” of the “10” has created an indelible mark in our organization’s history. Unfortunately, I, nor anybody else in our organization, cannot raise Lazarus from the dead. All we can do is learn from this situation and hopefully look at, and consider, my recommendations going forward.

I am recommending a complete overhaul of the confidentiality requirements that the members of AMC are required to sign and abide by. The AMC is the governing body for the AML. AML membership has a right to know what its elected officers are doing on their behalf. AMC members should be able to discuss with the membership what has occurred in these sessions when asked by the membership. I understand that the AMC, and by extension, the ExComm, has times where it needs to meet in executive session in order to discuss, vote on and address certain confidential issues such as personnel matters, strategy sessions, impending litigation, etc. These matters though should be very, very limited in scope. When an executive session is called, general highlights of the topics addressed should be kept as the meeting minutes available for the membership to review. Working sessions of the AMC can be conducted to address other topics and where no official vote is taking place. Meeting minutes can still be taken as to the general topics covered during these working sessions.

In regards to the By-Laws and ASIES, it is my recommendation that a committee re-evaluate these and draft suggestions for modifying the provisions regarding confidentiality. We additionally need to work on better defining what “Acts Inimical” are to ensure that at no time do personality conflicts, petty disagreements, and internal strife rise to the level of an “Act Inimical.”

Lastly, and I realize this is probably not going to be well received, but it needs to be said. I am recommending that we abolish the NHC in its entirety, or at least limit its ability to only be able to screen complaints and decide preliminarily whether an “Act Inimical” may have been committed. Once and if that decision is made, then the matter is referred to a neutral and independent arbitrator, outside of AML, to conduct the “trial” on the matter, AND impose sanction. The “trial” then is made open, to the membership, with a full record of its proceedings kept. Sunlight is the key!

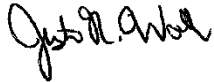
I understand that there is a cost associated with this, but the cost for providing a fair and impartial process is worth it in the long run. Before the “10” came before the NHC, the process of banishing/expelling members seems to be a fairly rare process. Looking at the ASIEs (page 49) it would appear that 10 people (since 2000) have been expelled from AML and 4 people have been sanctioned (plus the recent “10”.) If the NHC would be limited to only screening initial complaints, this would filter out any potential frivolous complaints and would ensure that only complaints with substance and potential merit would get moved on in the process and sent to an arbitrator, thus keeping the cost of this process in check.

In closing, we need to take this opportunity as a moment of self-reflection in how we can, as an organization, learn and grow from this event. The road going forward to rebuild trust in our

leadership and the governance of AML is definitely going to be rocky and filled with more potholes and challenges, but I truly believe we will come out the other side better for this.

I want to thank everyone that serves our great organization at either the local, regional and national level. I would again remind the AML membership that these folks are volunteers giving of their time in the performance of their duties. Please consider that in your interactions. Remember, being kind and respectful costs nothing.

Yours in Mensa

A handwritten signature in black ink, appearing to read "Justin A. Weber". The signature is written in a cursive, somewhat informal style.

National Ombudsman