

Message to the Guard

Nr. 3

June 18th, 2022

Subj: VASSAR Liability Insurance

Fellow Guardsmen,

1. I need to bring to your attention that the current VASSAR general liability insurance does not provide coverage for Color Guard members of VASSAR who handle and fire black powder. This issue was discussed this past Thursday at a VASSAR special insurance committee meeting.

2. The following points should be noted:

- The VASSAR general liability insurance currently in effect has an exclusion clause that lists explosives (i.e., gunpowder/black powder). We are seeking a written clarification from the insurance carrier as to this exclusion.
- One of our VASSAR chapters had previously sought out and purchased additional liability insurance to ensure its chapter members (including dual members) are insured to handle and fire black powder. This chapter is Colonel James Wood II.
- All other VASSAR members who handle and fire black powder do so at their own risk and are advised to review their personal liability insurance coverage (e.g., Homeowner's Umbrella Insurance) with their insurance agent.
- The Insurance committee is vigorously seeking out two potential short-term solutions to resolve the black powder coverage issue. It is estimated that this should be accomplished by next week. You will be kept informed on our progress.
- It should also be noted that the current VASSAR liability insurance covers the Society, as the entity, but not individual VASSAR members and/or VASSAR Color Guard members.
- The judicial concept of "Charitable Immunity" offers a degree of protection. Please see amplifying information in paragraph 3 below.

3. Please note, however, that regardless of the status of insurance, Virginia is one of nine states that honors the doctrine of "charitable immunity," which means charities and their agents (employees, officers, and volunteers) are immune for acts of negligence. This means that an injured party, even if a member or beneficiary of the charity, cannot sue a charity or its agents,

provided the injury arises out of activities associated with the charitable purpose and mission, and due care has been exercised in selecting, training, and retaining the agents. Charitable immunity does not apply to situations of gross negligence (extraordinary carelessness or recklessness) and intentional bad acts.

4. I wanted to ensure that you are kept fully informed about this issue – it has taken a degree of effort to tie all this together, but I am confident we have solutions close at hand.

Yours,

Chris Melhuish