

June 17, 2016

VIA ELECTRONIC MAIL

National Board, NASW
c/o Nicholas J. Marino
28 Liberty Street, 39th Floor
New York, NY 10005

Re: Sandra Bernabei et al. v. National Association of Social Workers, Index No. 652910/2016

Members of the National Board, NASW:

This firm represents the plaintiffs in the above-referenced case (“Plaintiffs”). We write regarding your recent attempts to solicit open-ended, plenary proxies from the membership of NASW. Your efforts are procedurally flawed and void as a matter of Delaware law. More importantly, in order to obtain proxies from the NASW membership you have made a number of materially false and misleading assertions regarding the identity of the Plaintiffs, who they represent, what their position and motivation is, and the court’s recent ruling on Plaintiff’s preliminary injunction.

Among other things, you suggested that Plaintiffs are merely six NASW members who are acting entirely on their own. That is a deliberate and serious misrepresentation. No less than seven chapters boards have unanimously voted “No Confidence” in the Board and its Modernization Plan. The only reason this is not more widely known is that the Board will not permit anyone who disagrees with it to email the membership. You have affirmatively lied to the membership about the level of support the Plaintiffs have in the state-level leadership, specifically in order to secure their proxies. As yet another non-exhaustive example, you have also falsely informed the membership that “the judge [in the abover-referenced case] ruled that the plaintiffs’ argument had no merit.” As your lawyers will explain to you, and you no doubt already know, the judge made no such ruling. The Judge simply ruled that at this early stage, without access to any discovery, Plaintiffs did not satisfy the very high burden required under the law to obtain a preliminary injunction. Of course, we understand why you would prefer to falsely suggest that the court had weighed the merits of this dispute and found in your favor. It just happens to not be true.

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In short, securing proxies by fraud and subterfuge is illegal and ineffective as a matter of law. Without waiving our challenge to the validity of any proxies you have obtained or will obtain through this sham process, we demand that you immediately distribute a statement correcting each and every false representation distributed to the members of NASW.

Moreover, we take this opportunity to put each of you on notice that your past and current conduct violates Delaware law and the fiduciary duties you owe NASW and its members.

As you know, in January 2016, Plaintiffs properly called for and demanded a special meeting of NASW pursuant to the bylaws of NASW (the "Special Meeting"). During this meeting the entire membership of NASW would have had the right and opportunity to vote on, among other things, whether or not to allow the National Board to implement the Modernization Initiative. You initially agreed to hold the Special Meeting in early April but, perhaps realizing that the membership was not likely to abandon a 60 year history of democratic, member-based governance in favor of the dictates of a handful of self-selected insiders, cancelled that meeting and refused to reschedule it. The National Board is in violation of §§ 109A, 211 and 215 of the Delaware General Corporation Law.

We hereby once again demand on behalf of the Plaintiffs that the National Board hold a Special Meeting at which the members may vote on, among other things, whether or not to allow the National Board to implement, or continue to implement, as the case may be, the Modernization Initiative. Prior to this meeting, which shall be properly noticed, the board must permit dissenting voices to speak, and state their views in a fashion not controlled and distorted by National. Once you have confirmed that this meeting will occur, and provide the date and place of the meeting, we would be happy to furnish you with a complete list of the agenda items to be presented at the meeting.

As noted throughout this letter, the Board is in violation of Delaware law and has breached the fiduciary duties it owes NASW and the membership. In light of this pattern of abuse and misconduct, if you do not comply with Plaintiffs' demand to hold the Special Meeting, Plaintiffs will have no choice but to amend their pending complaint to name each member of the National Board, individually. In light of your recent conduct, Plaintiffs would also expect to add a claim of fraud to their allegations.

Finally, we notice that in your recent communications with the membership you have provided an email address through which the members may ask the Board questions. Given the pendency of litigation, we expect that you will preserve and not destroy all communications you received and any and all responses provided to the members of NASW so that they will be available for use in the litigation.

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Sincerely,

Jordan D. Weiss

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