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January 28, 2023

Via email—[llolley@cpalolley.com](mailto:llolley@cpalolley.com)  
R. Lance Lolley, President  
Texas State Historical Association  
P.O. Box 5428  
Austin, Texas 78703

Re: Bylaws—Delegation of Authority

Dear Mr. Lolley:

This letter is being prepared in response to a request by the Texas State Historical Association ("TSHA" or "Association") to better understand its Bylaws, as amended, with respect to the delegation of authority. More specifically, the TSHA has asked what the Bylaws provide concerning the responsibilities and duties of the Executive Director and the Chief Historian and delegation of authority between these two positions. Based on a review of the Bylaws, this letter addresses these questions.

The Bylaws are relatively clear and unambiguous as to the delegation of authority and responsibilities of the Executive Director and the Chief Historian positions. But before discussing the specifics of these two positions as set forth in the Bylaws, we will address the structure of these positions with respect to the Board and President.

The Board and the Officers are elected positions, which elections take place at the annual business meeting. BYLAWS ART. VI and VII. The President reports to the Board and serves as the Chair of the Board. *Id.* at 6.4(a). The Board is responsible for appointing the Executive Director. *Id.* at 7.3(e). The Board is also responsible for appointing the Chief Historian. *Id.* at 9.1.

The Bylaws have specifics regarding what the duties and responsibilities are for both of the Board-appointed positions of Executive Director and Chief Historian.

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This delegation of authority is located primarily within Articles VIII and IX for the Executive Director and the Chief Historian, respectively. Each will be discussed separately.

### **Executive Director**

As set forth in Article VIII, “[t]he Executive Director shall be responsible for all operations of the Association, subject to the policies set by the Board.” BYLAWS at 8.1. And, the Executive Director shall be responsible to and report to the Board through the President. *Id.* After this overall delegation of authority over *all operations* of the Association, the Bylaws provide examples of other Executive Director duties:

- a) Responsibility for all Association personnel;
- b) Development and oversight of the annual budget;
- c) Supervision of all Association fund raising activities;
- d) Oversight of publicity for Association activities and programs;
- e) Representing the Association at public and governmental functions, as needed;
- f) Carrying out special projects as assigned by President or Board.

*Id.* at 8.2-8.3. This delegation of responsibility covers all activities of the Association and is only limited by the Board’s policies and direction. The Bylaws also delineate the reporting structure for the Executive Director, who reports to the Board through the President.

### **Chief Historian**

With respect to the Chief Historian, who is appointed by the Board, Article IX provides that the “Chief Historian shall be responsible for the scholarly work of the Association, subject to the policies set by the Board.” *Id.* at 9.1. The Chief Historian is responsible to and reports to the Board through the President. *Id.* In addition to and consistent with the scholarly work responsibilities, the Bylaws provide that the Chief Historian:

- a) is the Editor of the *Southwestern Historical Quarterly* (“*Quarterly*”);

- b) works with the Director of Publications to appoint the Associate Editor and Editorial Assistants;
- c) is responsible for ensuring the material published in the *Quarterly*, including the Book Reviews Section and all other publications of the Association have a bearing upon the history of Texas.

*Id.* at 9.2.

Additionally, with respect to all matters regarding scholarship, the directors and editorial staff of publications, education, and the *Handbook of Texas* shall report to the Chief Historian. However, this scholarship reporting structure is subject to the general oversight of the Executive Director, as the Bylaws provide that the Executive Director is “responsible for all association personnel.” BYLAWS at 8.2(a). Further, with respect to non-scholarship matters, all personnel report up the chain of command to the Executive Director without a reporting structure through the Chief Historian. *Compare* 8.2(a) with 9.1-9.3.

After describing the duties and responsibilities of the Chief Historian as set forth in 9.1-9.3, the Bylaws continue and provide further clarity as to the interplay between the Chief Historian’s scholarly responsibilities and the Executive Director’s responsibilities over all operations of the Association. Specifically, Article 9.4 explains: “In the event of disagreement between the Chief Historian and the Executive Director, the President shall serve as arbiter, with an appeal to the entire Board, whose decision will be final.” *Id.* at 9.4. This language and the location of it immediately following 9.1 through 9.3 demonstrate, at a minimum, clear oversight by the Executive Director of the Chief Historian’s duties set forth in 9.1 through 9.3. Otherwise, the language would have no meaning, and it could be interpreted that the Executive Director has oversight over the Chief Historian in an even larger context.

Finally, subject to concurrence of the Board, the Chief Historian shall annually select members of the Publications Committee and shall serve as the Chair of this committee. *Id.* at 9.5. The Publications Committee is responsible for recommending to the Board publication of books as required by Article X. *Id.* at 11.1. Article X further explains that it is the Association that will undertake the publications as recommended by the Chief Historian and the Publications Committee and approved by the Board. The Chief Historian also is to appoint members of certain advisory committees identified in 9.6.

### **Interaction Between the Executive Director and the Chief Historian**

As set forth above, it is the Executive Director, who is responsible for all operations of the Association, subject to the Board. While the Chief Historian has certain autonomy over scholarly work, these responsibilities fall under the overall operations of the Association. *Compare* BYLAWS 8.1-8.2 with 9.1-9.3. For example, the Association publishes the various publications once the Chief Historian ensures the materials published have a bearing on the history of Texas. *Compare Id. at 9.2 with 10.* Further, these publications support and/or are a part of the Association's fundraising activities and other activities and programs, which both fall within the duties and responsibilities of the Executive Director. *Id. at 8.1-8.2.*

To the extent there is any ambiguity in the Bylaws in this respect, Article 9.4 follows directly after 9.1 through 9.3. And, 9.4 clearly provides that the Executive Director has input through his oversight responsibilities; because if there is any disagreement between the Executive Director and the Chief Historian, the President has the final say as to any disagreement, subject to the Board. BYLAWS at 9.4. Article 9.4 would not be needed if the Chief Historian had complete autonomy over the duties and responsibilities described in 9.1 to 9.3.

An email between the Executive Director and the Chief Historian, on which the President was copied, was presented as examples of the disagreement of power. The email described three situations where the Chief Historian claims that the Executive Director has exercised management and oversight in areas, which the Chief Historian claims are outside the Executive Director's duties and responsibilities and within the Chief Historian's duties and responsibilities. This letter briefly addresses each example situation and what the Bylaws provide as to each.

- **Example 1**—The Executive Director set a goal for the publication of four books per year by TSHA Press without consulting the Chief Historian and made other inquires of the Editor of the Press.
  - Not surprisingly, the Bylaws do not set a number of books to be published each year. As noted above, the Bylaws do provide in Article VIII that the Executive Director is responsible for all operations of the Association, subject to policies set by the Board, and the Bylaws provide the Executive Director with (i) supervision over all fundraising activities and (ii) oversight of publicity for Association activities and programs. BYLAWS at 8.1, 8.2(c), (d). As to the Chief Historian, the Bylaws, in part, provide that Chief Historian is responsible for seeing that the materials published have a bearing on

the history of Texas and shall serve as Chair of the Publications Committee. BYLAWS at 9.1, 9.2. One specified purpose of the Publications Committee is be responsible for recommending to the Board certain books for publication as required by Article X. *Id.* at 11.1(h). Article X provides that the Association shall from time to time undertake publications as may be recommended by Chief Historian and the Publications Committee subject to Board approval with the *Quarterly* taking precedence.

The Bylaws do not set any goals about the number of books to be published, other than the *Quarterly* takes precedence. The publication of books and the money generated from sales involve publicity for the Association, and are within the operations of the Association. Thus, the Executive Director has clear authority to set goals as to the number of books to be published each year as long as this goal does not interfere with the publication of the *Quarterly*. Once a goal is set, it is the Publications Committee's responsible with the Chief Historian as its Chair to recommend works to be consider for publication, and it is the Chief Historian's added responsibility to ensure that they have a bearing on the history of Texas. *Id.* at 9.2 and 11.1(h).

- **Example 2**—The Executive Director offered a spot on the 2023 Annual Program to the leader of the Texas Folklore Society, without consulting the Chief Historian.
  - The Bylaws again are helpful to determine whether the Executive Director exceeded his authority by such an offer of participation. The Annual Program certainly falls within the operations of the Association and its fundraising activities, as well as being an activity and program of the Association. All of these are well-within the Executive Director's preview. *Id.* at 8.1, 8.2(c), (d). The Bylaws do discuss how the advisory Program Committee and Annual Meeting Program Committee are to be appointed. The President is required to consult with the Chief Historian in connection with the President's appointment of committee members to the Program Committee. *Id.* at 11.2(a). And, the President and the Chief Historian appoint the Annual Meeting Program Committee. *Id.* at 11.2(h). The Executive Director's actions as described in the email example do not impinge upon the Chief Historian's consultation involvement and appointment authority as to these two committees. Further, the authority of the

Chief Historian does not override the Executive Director's overall authority to be involved and oversee the operations of the Association, which includes input into the Annual Meeting.

- **Example 3**—The Executive Director told a staff member to ask about an article to be published in the *Quarterly*.
  - Again, the Bylaws speak to this issue. The Executive Director is responsible for the operations of the Association and has supervision over fundraising activities and oversight of publicity for Association activities and programs. *Id.* at 8.1, 8.2(c), (d). The publishing of the *Quarterly* is an activity of the Association, and *Quarterly* helps raise funds via by limiting its distribution to encourage individuals to become members through their financial support for the Association. The Bylaws require the Chief Historian to be the Editor and appoint the Associate Editor and editorial assistants in connection with the Director of Publications. Thus, the Bylaws provide more detail as to the Chief Historian with request to the *Quarterly* and that certain committees are to help him with his scholarly responsibilities over the *Quarterly*. Despite this authority, the Executive Director is not precluded from asking questions of the Editor or staff members regarding the *Quarterly* in his overall responsible of the operations of the Association and its personnel. This overall authority and supervision is further highlighted by Article 9.4, which provides that if there is a disagreement between the Executive Director and the Chief Historian, it is to be resolved by the President, subject to an appeal to the Board.

We hope that this analysis is helpful to the President and ultimately the Board in its supervisory roles over both the Executive Director and the Chief Historian positions. We hope that this letter also brings clarity to help the Executive Director and the Chief Historian work more efficiently as a team while respecting each other's responsibilities for the Association. If the Board and/or the President disagree with this interpretation of the Bylaws as to the various authorities and responsibilities of the Chief Historian and the Executive Director, or if the Board and/or President simply desire more clarity, then the Board has the authority to clarify this by setting policies to elaborate and explain any responsibilities and hierarchy of authority that are not addressed specifically in the Bylaws or by taking steps to amend the Association's Bylaws.