

## II. THE NATIONAL ACADEMY OF ARBITRATORS: DECLINE AND FALL OR RENEWAL?

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### Introduction

The National Academy of Arbitrators (NAA) was founded in 1947. Arguably, it is the most prestigious arbitration group in the world—and the most exclusive. The Academy has been described as “the foremost independent body of neutrals in North America.”<sup>1</sup> The membership of the NAA includes virtually all of the leading arbitrators in the United States, Canada, and most of the industrialized world.<sup>2</sup>

But some have speculated that the NAA’s best times are in the past. Here is an example:

The Academy certainly shows signs of fossilization: aging membership, dwindling numbers of new members—especially new members under the age of 50—and lots of members with dues waivers. The formal requirements for membership have been unchanged for decades and may actually have become more stringent in practice due to informal interpretation of the rules. The annual meetings no longer attract many non-member guests (labor-management decision-makers). The Academy has difficulty adjusting to modern conditions, such as the shrinkage of the unionized workforce and the increasing diversity of the workforce. Academy members do not look like America. The Academy’s predicament resembles in some respects that of the Shakers, who became extinct rather than give up the old ways—in that case celibacy.<sup>3</sup>

In this paper, we report results of a theoretical analysis that is based on two sources. One is a survey, conducted by e-mail, to

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<sup>1</sup>From John Kagel’s *President’s Message* during his term as President of the NAA. Available from the authors or from the NAA, Office of the Executive Secretary-Treasurer, David A. Petersen, Suite 600A, 1121 Boyce Road, Pittsburgh, PA 15241, telephone (724) 941-8220, fax (724) 941-9235.

<sup>2</sup>From James Sherman’s *President’s Message* during his term as President of the NAA. Available from the authors or from the NAA, Office of the Executive Secretary-Treasurer, David A. Petersen, Suite 600A, 1121 Boyce Road, Pittsburgh, PA 15241, telephone (724) 941-8220, fax (724) 941-9235.

<sup>3</sup>This description was provided in response to an e-mail survey that we conducted. The text of the e-mail survey is available as Appendix 2, printed at the end of this chapter.

determine reactions to a rather controversial issue the Academy faces: allowing employment arbitrators to become members. The second part of our analysis involves a literature review linking the theory of organizational decline, extracted from the management literature, to what we, as “outsiders,” see when we consider the Academy based on indicators such as comments by those familiar with the organization, characteristics of its membership, and even an analysis of its Web page. Both parts of our analysis indicate that the Academy may be in the organizational life cycle known as decline. Finally, we offer possible approaches to change based on the management literature and our experiences with an organization that has successfully faced and dealt with similar challenges.

### Background

Our review has its origins in an e-mail survey that investigated issues in labor arbitration.<sup>4</sup> Our first objective was to identify a widely recognized labor arbitration issue. To identify potential issues, we made a number of informal calls to arbitrators and others in the field of industrial relations. Our informal contacts led us to believe that most of the conceptual issues in labor arbitration had been identified and dealt with over the past half century. An offhanded comment of one of our contacts (an Academy member) was that the only current controversy seemed to be a debate within the Academy about whether to accept employment arbitrators as members. We had found our issue of interest.

As our research continued, we discovered that Dennis R. Nolan had already provided a comprehensive analysis of the cases for and against employment arbitrators as members of the Academy.<sup>5</sup> Moreover, our sense of the implications of Nolan’s work was that the case for accepting employment arbitrators as members of the Academy was stronger than the case against it. Our preliminary research also told us that many labor arbitrators who are members of the NAA are also employment arbitrators. According to one

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<sup>4</sup>This survey is available as Appendix 2, printed at the end of this chapter.

<sup>5</sup>Nolan, *The National Academy of Labor and Employment Arbitrators? in Arbitration 1999: Quo Vadis? The Future of Arbitration and Collective Bargaining*, Proceedings of the 52nd Annual Meeting, National Academy of Arbitrators, eds. Grenig & Briggs (BNA Books 2000).

study, 46 percent of the Academy's members have arbitrated a nonunion employment dispute.<sup>6</sup>

As we progressed with our research, we began to wonder if the concern about the admission of employment arbitrators was merely a symptom of a larger problem, and in this case, a symptom of *organizational decline*. The possibility of such decline, the contributing factors, and ways to overcome it, therefore, became the focus of our research.

### The E-Mail Survey

We sent an e-mail inquiry to arbitrators listed with the Federal Mediation and Conciliation Service (FMCS), the American Arbitration Association (AAA), and the NAA on April 30, 2001. Although we received several suggestions on employment arbitration and other research issues, we faced an unexpected outcome: We received many comments that "bashed" the Academy. Moreover, when the respondents were Academy members, we noted a tone of resentment about our "prying" into the Academy's internal affairs.

All told, we received 76 e-mail responses to our inquiry and were able to use 38 for purposes of this study. The database is obviously limited and may, in fact, be skewed in some unknown direction. Our study focuses on identifying underlying conceptual patterns in the e-mail responses. In effect, we performed content analysis, using the technique of discovered categories and criteria.<sup>7</sup> This technique is a variant of the Q-sort, where topics are grouped together in terms of their conceptual similarity, with the categories evolving as the analysis proceeds. We were challenged by the wide range of comments. Many were very lengthy and often included several topic areas. As a result, we conducted the sort twice, with the first sort developing overall themes and a second sort paring down the comments to their most pithy and cogent form. To maintain confidentiality, we edited out as many identifiers as possible.

Based on our review of the 38 e-mail responses that were useful for this research, we concluded that there was evidence indicating that the Academy was a closed organization resting on its past

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<sup>6</sup>Picher, Seeber, & Lipsky, *The Arbitration Profession in Transition: Preliminary Results from a Survey of the National Academy of Arbitrators*, Proceedings of the 52nd Annual Meeting, National Academy of Arbitrators, eds. Grenig & Briggs (BNA Books 2000), 241.

<sup>7</sup>Kerlinger, *Foundations of Behavioral Research* (3d ed. Holt, Rinehart & Winston 1986).

laurels and reluctant to change its mission. We then slotted the 38 e-mail responses into common themes that supported our conclusion about the Academy. In the results that follow, we report the themes and condensed samples of the 38 e-mail responses that best fit those themes.

*Theme 1: The Academy Is Too Exclusive; The Admission Requirements and Processes Act as a Deterrent to Membership*

I once inquired into making application for acceptance to the Academy, but when I looked at the rather lengthy process and weighed that against the benefits derived from being able to print "Member National Academy of Arbitrators" on my biographical sheets, I decided it was not worth it. The last I read about the Academy it was certainly less than certain it was a viable organization. Seems to me it should be a more inclusive and easier to enter club.

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I would like to see extensive research into the relationship between current requirements for membership [in] the Academy and qualifications of a competent arbitrator. It appears to me that there is not a significant relationship between having to decide a number of cases within a relatively short period of time and competency. As a fairly new arbitrator, I find the rules of admission substantially exclude arbitrators from consideration for membership.

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The Academy is becoming more ridiculously exclusive. Many arbitrators who have been in the Academy from years past did not have to jump through the hurdles that are now required. There are also rumors that membership is often a function of "who you know."

\* \* \* \*

There is no doubt in my mind that my dealings with the Academy have been the low point in my career. Their lack of professionalism and ethics was an embarrassment even to them. I tried to be admitted and they jerked me around. I have no need to be abused further. In the end they are old dinosaurs heading toward a graveyard. I really do not understand why anyone would wish to take time to research such a group.

*Theme 2: The Academy Is Too Monolithic; The Membership Should Be More Diverse With Respect to Age, Gender, Race, and Related Dispute Resolution Professions*

In my opinion, the requirements for membership generally exclude all but a select few. It would seem appropriate to have more diversity among the members.

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The Academy seems to be trapped in the 1960s.

\* \* \* \*

Research on how to best increase these two groups [minorities and females] is critical for the Academy's future. Relevancy is also a question facing the Academy in the future.

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[Here are questions that need to be addressed:] What is [the Academy's] purpose? Is it still the same as it was 10–20 years ago before the advent of dot com? And who is the Academy attracting for members: are they all over 50, 60? Who is going to carry the Academy if we do not start attracting younger members? Should the Academy's definition of arbitration and or arbitrator be expanded to include other areas of arbitration, i.e., commercial, security, construction, and business? These areas employ arbitrators who are not bound by Academy standards. To maintain its relevance, the Academy is clearly going to have to change the way it does business. We need more outreach efforts to other arbitration organizations to promote the Academy. This is not being done.

*Theme 3: The Academy Needs to Look at the Future Demand for Labor Arbitration*

I believe any research on the viability of the Academy also needs to focus on the basic frequency of the market for labor disputes and labor management dispute resolution. It is the market for such labor disputes that necessitates the national need for labor arbitration.

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I strongly support any arbitration research, but would definitely attempt to find a way to focus on the market for labor arbitration services (need of the Academy), transferability of the skill from other areas and disciplines (membership in Academy based on qualifications), and the cost/benefits of labor-management arbitration (future viability of Academy).

*Theme 4: Defensiveness About Intruding on the Academy's Turf*

I cannot conceive that the subjects you mention [Academy membership issues] are appropriate for research in the academic sense. The answers will not come from research—what are the possible sources? . . . You will not receive cooperation [from the Academy] by this approach [the e-mail inquiry].

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The Academy is extraordinarily sensitive about outside and even inside scrutiny.

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Several people [in the Academy] who had also received your message [might] think you [may be] meddling into internal affairs of the Academy.

*Theme 5: General Observations*

**Age**

It also seems that a mandatory retirement age may well be considered of arbitrators . . . and whether or not aging is detrimental to quality conduct of hearings/decisions and arbitrator demeanor/effectiveness.

**Value of the Academy**

I never got around to applying again because I really couldn't see much advantage in membership. In 15 years, I have only come across one contract, which said arbitrators should be Academy certified (but I was selected anyway).

\* \* \* \*

As an arbitrator with several years' experience, why do I see no indication anywhere, which would influence me to seek membership?

\* \* \* \*

In all the years I have been arbitrating, I have never had any party in any of my arbitrations ask me if I was a member of the Academy—or even talk about it.

Note that these comments, taken as a whole, suggest an undercurrent of concern about the Academy's role and future. Those outside the NAA question its relevance and its future, whereas those within are fearful of "outsiders" who ask too many questions. We now consider a series of additional problems revolving around the general theme of membership requirements.

**Membership Requirements**

When considering policies, procedures, and similar requirements, theory suggests that there are natural points in an organization's life cycle where reevaluations are appropriate.<sup>8</sup> Apparently, the NAA has not subscribed to such concepts. It seems that its membership requirements have not changed significantly for decades. Furthermore, there are a number of indicators of rigidity.

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<sup>8</sup>Steiss, *Management Control in Government* (Lexington Books 1982).

Arguably, the Academy's goals for membership, at least in concept, should be no different from the selection process and goals of any organization. That is, organizations want to attract and retain a diverse mix of members (employees) who will add value to the organization. But how effective has the NAA been in attracting members from diverse backgrounds? Does the Academy look like America? Not according to a 1999 survey of 462 members of the NAA.<sup>9</sup> In fact, the authors of the survey commented that it is very difficult to evade the reality that Academy membership is exceptionally homogeneous with respect to race and gender. The numbers tell the story: 94 percent white and 88 percent male.<sup>10</sup> Of the Academy members surveyed in 1999, 61 percent were lawyers, the average member was 63 years old, 10 percent were under age 50, and 7 percent were over age 80. Female members of the NAA are younger, with an average age of 56, than the male members, whose average age is 64. Only 12 percent of Academy members were women. African Americans represented a bleak 2.5 percent of the members.

### The Requirements Themselves

The requirements are illustrated in condensed form in Appendix 1 (printed at the end of this chapter). We focused on the following questions:

1. Are the criteria for membership clearly defined?
2. Are the criteria realistic in terms of identifying competent labor arbitrators?
3. Can the criteria be measured quantitative and qualitatively?
4. Are there multiple levels of review for difficult decisions?

Based on our analysis, the answer to all of these questions is *no*. Additionally, we could see how these requirements could actually have a *negative* impact on attracting members who could potentially add value.

The first requirement that the applicant should be of good moral character goes without saying for all organizations. However, moral character is not adequately defined. As written, the

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<sup>9</sup>Picher et al., *supra* note 6.

<sup>10</sup>*Id.*

second requirement is difficult to understand. Therefore, we have edited it considerably to read as follows:

[A member should have] a threshold requirement [of] at least five years of arbitration experience and a minimum of 50 diverse “countable” arbitration cases during that five-year period. Multiple cases before the same parties or in the same industry do not meet the general acceptability criterion. To be “countable,” cases generally should satisfy the following requirements [please note our later comments regarding expedited cases]:

The arbitrator conducted a full evidentiary hearing which included the examination and cross-examination of witnesses;

The arbitrator issued a written award and opinion with supporting rationale fully laid out.

A decision in which the arbitrator presented an oral, abbreviated or condensed explanation of the rationale supporting it does not count toward admission.

Clearly, the requirement favors full-time, older, established arbitrators in historically unionized regions.

The term “threshold requirement” means the NAA expects more than 50 cases. If they did not, they would not say threshold. As one of our survey respondents observed, it means at least 75 cases. The requirement of a minimum of 5 years of arbitration experience and a minimum of 50 diverse “countable” arbitration cases during that 5-year period is arbitrary—no pun intended—and defies logic. Taken literally, the requirement means that an arbitrator could hear 100 cases in a 5-year period in the same industry and would not be accepted by the Academy, or could hear 100 cases in a 5-year period before the same parties and not be accepted by the Academy, or could hear 100 disciplinary cases in a 5-year period and would not be accepted by the Academy.

When taken at face value, many potential candidates could find the requirements so off-putting that they would not apply.

We also examined the requirements related to the value of expedited arbitrations. As can be seen from the earlier material on countable cases, most expedited cases will not count toward membership requirements because they fail to satisfy the full evidentiary hearing or full-blown decision requirements. This requirement is puzzling. It considers the expedited case in the same framework as a standard case. It seems that as far as the NAA is concerned, the operational definition for a regular case and an expedited case are one and the same.



Expedited arbitrations were created in the interest of sparing parties unnecessary costs and delays associated with the process for a full evidentiary hearing and full-blown decision requirements. An arbitration with a full evidentiary hearing and full-blown decision requirements is not an expedited arbitration. With this requirement, the NAA seems to be saying that expedited cases don't count.

The third requirement is also puzzling. As an alternative to item 2 above, the applicant with limited but current experience in arbitration can be considered for admission if he or she has attained general recognition through scholarly publication or other activities as an important authority on labor-management relations. From an applicant's viewpoint, this requirement would seem vague. What is "limited but current experience?" What is "general recognition through scholarly publication?" What are "other activities as an important authority on labor-management relations?"

### **Organizational Decline**

Our assessment of the indicators discussed suggests that the NAA is an organization in decline. The responses to our e-mail survey certainly lean in that direction, and those responses are supported by objective evidence. Membership levels have been declining for years, and with an average membership age of approximately 65, mortality may accelerate the decline further. Additionally, the fact that the Academy has not changed the way it operates in decades is an indication of a fixation on the past to the extent that the present and future conditions important to survival may not be addressed. Moreover, our observations suggest that there is an apparent culture that values exclusion and the status quo to the extent that some members of the Academy would rather see it close its doors—a classic sign of decline.

In this section, we describe the theoretical framework of organizational decline from an important body of theory advanced by Mary E. Guy and relate it to the NAA as much as possible. Unless otherwise indicated, the following details related to organizational decline are attributed to Guy.<sup>11</sup>

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<sup>11</sup>Guy, *From Organizational Decline to Organizational Renewal—The Phoenix Syndrome* (Quorum Books 1989), 3-17.

Decline is a downward spiraling of an organization. The deeper it is in the process of decline, the more indicators, or benchmarks, there are of decline. Decline, or the threat of decline, is a commonly encountered phenomenon in the life cycle of an organization. In some cases it can be avoided; in some it cannot. Key members of the organization may even support the decline. Perhaps the greatest hurdle for leaders of the organization is to acknowledge decline when it occurs.

Of interest to the NAA, decline in older organizations is not always easy to identify and may be a result of dysfunctional traditions, customs, procedures, or habits that were once functional and contributed to the organizational mission. Such subtle causes of decline take considerable time to develop, identify, and rectify. To avoid decline, organizations should have regular, meaningful reevaluation of their traditions, customs, procedures, and habits. When these reevaluations become routine, potential decline is averted before too much damage occurs. When they are not performed, organizations persist in established patterns, even when meeting their objectives no longer achieves the goals of the firm. Organizations rationalize their way of doing things because they “worked in the past.”

There are a number of subjective benchmarks of decline; a few may be at work in the Academy. There is a loss of prestige or reputation. There is a defensive, negative, or pessimistic tinge to the organizational culture. There is a perception among people inside and outside the organization that it is in decline. The priorities, direction, and goals are unclear. Key people in the organization may be in denial about the decline.

Unfortunately, by the time key people see how the benchmarks of decline fit together as pieces of a puzzle, the bulk of the damage has been done. The damage may be reparable, but overcoming a resistance to reversing the trend from decline to renewal usually requires extraordinary leadership and a great deal of work. That’s because it is more difficult to manage an orderly retreat (decline) than it is to manage an orderly charge (renewal). The reason for the charge is usually self-evident, and the goal is clear. A retreat is ambiguous; no one knows for sure what direction to take, but everyone knows that personal harm will be one of the outcomes. Retreat is also contrary to one’s training, and there are few rules for an orderly retreat.

### Resistance to Change

Most organizations tend to be characterized by inertia and an active resistance to change.<sup>12</sup> Evidence of organizational resistance to change is all around us. Government agencies continue to do what they have done for years, whether the need for the service changes, remains the same, or no longer exists. As educators, we are firsthand witnesses to educational institutions whose ostensible mission is to teach students to open their minds to the nature of human beings and the universe yet are reluctant to change teaching methods, some of which have been around since the Middle Ages.

Why is it—as indicated by our e-mail survey and the other evidence we cite—that the NAA has not changed significantly in decades? Of course, it is possible that the Academy got it right in the first place and there is no need to change. This is the same rationale the Catholic Church has used to maintain its status quo over several centuries, and the Church has been a successful organization for the best part of two millennia. But realistically, we think that the NAA's apparent resistance to change may be the result of a multiplicity of variables that are fairly common within an organization and have nothing to do with its success.

Not easily ignored is how age affects decisionmaking. As mentioned earlier, and like the American population, there has been a steady graying of the NAA. The related research indicates that, all things considered, a person age 65 is generally more resistant to change than a person age 40; that a group of people with an average age of 65 is more resistant to change than a group of people with an average age of 40. We estimate that the Academy is a group of people with an average age of 65 who range in age from 45 to 85. Assuming the pattern of membership exclusion persists and people in the age group 30 to 50 find no personal instrumentality associated with belonging to the NAA, the average age will continue to rise. And, assuming that resistance to change increases with age, the Academy may never change—unless, of course, and as W. Carl Ketcherside predicted, change will come more quickly through funerals rather than through fighting, and after a sufficient num-

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<sup>12</sup>Tolbert, *Institutional Environments and Resource Dependence: Sources of Administrative Structure in Institutions of Higher Education*, *Administrative Sci. Q.* 1-13 (Mar. 1985). Robbins, *Managing Today* (2d ed. Prentice Hall 2000), 560-94.

ber of funerals, the “brilliant young minds” will take over and, presumably, reengineer the Academy.<sup>13</sup>

Ironically, organizations like the NAA that have experienced lengthy periods of success tend to be particularly resistant to change. The declining fortunes of many organizations illustrate that success often leads to arrogance and indifference to their competitive environment. However, success need not breed failure. If arrogance and being out of touch with its environment is at work at the Academy, it may be necessary for its leadership, as was the case with General Electric, to take aggressive steps to adapt to its changing environments.

Sorting out the symptoms of resistance is tricky, because resistance can take many forms. It can be covert or overt, implicit or explicit, and immediate or deferred.<sup>14</sup> However, several sources of organizational and personal resistance have been identified.<sup>15</sup> Here, for the sake of brevity and to focus on our analysis, we include only those sources of resistance that seem to apply to the NAA. We use the issue of employment arbitrators as Academy members as an example to make sense of organizational resistance.

#### *Structural Inertia*

Organizations have built-in mechanisms to produce stability. For example,

the selection process systematically brings certain people in and leaves certain people out . . . socialization techniques reinforce specific role requirements . . . people who are selected [as members] are chosen for fit [and] are then shaped and directed to behave in certain ways . . . [When] confronted with change, this structural inertia acts as a counterbalance to sustain stability.<sup>16</sup>

In short, the Academy could be selecting members who are most likely to maintain the status quo.

#### *Limited Focus of Change*

Organizations are made up of interdependent subsystems. A change in one subsystem affects the others. Limited changes in

<sup>13</sup>See, e.g., Ketcherside, *The Death of the Custodian: The Case of the Missing Tutor* (Diversity Press 1996). See also comments at <[http://www.mun.ca/rels/restmov/texts/wcketcherside/mm/mm24\\_03a.html](http://www.mun.ca/rels/restmov/texts/wcketcherside/mm/mm24_03a.html)>.

<sup>14</sup>See, e.g., Fisher, *Making Change Stick*, *Fortune*, April 17, 1995, at 121–29.

<sup>15</sup>Katz & Kahn, *The Social Psychology of Organizations* (Wiley 2d ed. 1978).

<sup>16</sup>*Id.*

subsystems tend to get nullified by the larger system or other subsystems. To understand this source of resistance, recall that Nolan found that to include employment arbitrators as members—a change in the subsystem of the Academy—would require a major overhaul of the NAA’s bylaws and way of doing business. Even if a major overhaul could be accomplished, the culture of the Academy, acting as a strong subsystem, could nullify a change to the subsystem of membership requirements. Therefore, using a change of membership as an example, not only would the bylaws have to be changed, but so would the culture of the Academy. Otherwise, the culture would find a way to practice exclusion regardless of relaxed membership requirements.

#### *Group Inertia*

Even if individuals favor change, group norms may act as a constraint. Nolan’s analysis of employment arbitrators as members created angst within the ranks of the NAA.<sup>17</sup> That the issue on employment arbitrators has remained dormant in the intervening 3 years since Nolan’s work may be an indication that group norms have prevailed.

#### *Threat to Expertise*

Changes in organizational patterns may threaten the expertise of specialized groups. The NAA is a specialized group—labor arbitrators. Inclusion of employment arbitrators or any other type of arbitral group represents a need for a new mix of know-how. Consider the leadership of the Academy. All that is required in the way of know-how for the president of the NAA is the know-how that applies to labor arbitration. Any change in membership requirements that would result in a more diverse mix of know-how would require a president to have a broader expertise.

#### *Threat to Established Power Relationships*

Any redistribution of decisionmaking authority can threaten long-established power relationships within an organization. Our guess is that white, male labor arbitrators over age 60 control the Academy. That could change with less restrictive membership

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<sup>17</sup>Based on comments from the respondents to the e-mail survey (printed as Appendix 2 at the end of this chapter) and private conversations with Academy members.

requirements. Conceivably, in the future power could be held by a racially diverse group of males and females in their 40s representing a variable range of arbitration know-how.

*Threat to Established Resource Allocations*

Those groups in the organization that control sizable resources often see change as a threat. They tend to be content with the way things are. Today, all of the NAA's resources are allocated to activities of interest to seasoned labor arbitrators. Under a new membership paradigm, resources would have to be re-allocated to a more diverse set of interests.

*Economic Factors*

A source of individual resistance is concern that changes will lower one's income. Certainly, by limiting access to the field of labor arbitration, the threat of competition for cases is reduced. It is altogether possible that the NAA's practice of limiting membership keeps the supply of labor arbitrators at a level that protects the source of income of its members.

*Fear of the Unknown*

Changes substitute ambiguity and uncertainty for the known. Generally speaking, members of organizations dislike uncertainty. If the NAA has "not changed for decades," then there is certainty in the way the structure and the culture operate. The introduction of a more diverse group of members into the Academy would upset the applecart of certainty. The NAA would probably cycle through a time of acclimation best described by the Tuckman Model.<sup>18</sup> The model predicts that people who are new to each other in an unfamiliar setting acclimate to one another through a process of forming (feeling each other out), storming (competition for power and control), forming (moving toward a common set of values), and performing (working toward a common purpose). Generally speaking, until things settle down (performing), this period of time would be characterized by rancor and angst—nothing to look forward to by Academy members who are comfortable with the status quo.

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<sup>18</sup>Tuckman, *Developmental Sequence in Small Groups*, 63 *Psychological Bull.* 384–99 (2000).

*Selective Information Processing*

Individuals shape their world through their perceptions. Once they have created this world, it resists change. A general perception about membership requirements has already been established within the NAA. Here is a scenario: Assume that the issue of membership requirements might be entertained in the near future. Also assume that the perception is that the requirements should not change. When the issue of requirements comes up, members will selectively process information in order to keep their perceptions intact. They will hear what they want to hear and ignore information that challenges the Academy they have created. Under the scenario we describe, membership requirements will not change any time soon.

**Other Issues That Affect Viability***Lack of Strategic Planning*

Typically, organizations that decline and fall suffer from a lack of proper strategic planning.<sup>19</sup> We were surprised that the NAA's Web site made no mention of its strategic plan. Most modern organizations, at a minimum, have the basic elements of a strategic plan posted on their Web sites. Typical strategic planning information posted on Web sites includes the organization's mission statement, vision for the future, core values, and general goals. One reason for having this information on the Web site is that it helps to recruit good job candidates. Plus, it keeps members of the organization informed about the direction of the organization.

We asked some members if the NAA had a strategic plan. No one knew for sure. Although we did not probe extensively about whether the Academy in fact had a strategic plan, we concluded that because there was no element of strategic planning on the Web site or apparently in the hands of the membership and known by them, even if a strategic plan does exist, it is not communicated and may be of no value.

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<sup>19</sup>Thompson, Jr., & Strictland III, *Strategic Management, Concepts and Cases* (11th ed. Irwin/McGraw-Hill 2000), at 23-24.

The virtues of strategic planning are beyond the scope of this paper, but they are likely evident to even the most unsophisticated organizations. One aspect of strategic planning that could be most beneficial to the NAA is an analysis of its strengths, weaknesses, opportunities, and threats—also known as a SWOT analysis—to isolate key issues and to facilitate a strategic approach to change. We find that the major threat to the NAA's future is its apparent decline in membership and prestige. And we suggest that the two fundamental weaknesses within the Academy that could result in its fall are its membership model and a culture that resists change. Assuming that the Academy could get to that point of strategic analysis, implementing a plan to address those two weaknesses would be the next logical step.

#### **The Store Front: The NAA Web Site**

Today more than ever, and even more so in the future, a person drawn to an organization for purposes of employment or membership will first visit the organization's Web site. From that visit, the person's judgment about his or her interest in being part of the organization will be influenced in some way. We asked a group of our computer-savvy associates to comment on the NAA's Web site. Of the seven people who evaluated the site, all found it unacceptable in several respects. Some of the comments were:

- The Web Site has the look and feel as 1995-ish Academic in overall design. Plenty of good content, but the form is bad . . . bad. I really can't imagine many folks actually using the site.
- Central image is poor and could easily be cleaned up and improved.
- Very confusing menu structure, I can't figure out how it is organized. It should be intuitive and multi-tiered, categorized in easy-to-follow groupings.
- Page Errors: Some are missing altogether like [naarb.org/grant.html](http://naarb.org/grant.html). Some are there, but you have to scroll down to get any information like this [naarb.org/ethics.html](http://naarb.org/ethics.html). Some pages go on forever and ever like this: [naarb.org/ethics.html](http://naarb.org/ethics.html).



- The content is there, the info has been categorized, but not well organized.<sup>20</sup>
- Without digging much deeper, it would be tough for me to understand how the site relates to [an] overall marketing strategy and biz model. Let me know if I can beat it up any more—or point your organization in the direction of a cost-effective developer.<sup>21</sup>

These comments suggest that the NAA Web site would not attract members who can add value to the organization. In fact, it is so dreary that it could make a negative impact and be taken as an indication that the Academy is not tuned in to modern times. We recommend that the NAA re-engineer its Web site, perhaps using a benchmark design such as the Web site for the American College of Healthcare Executives (ACHE),<sup>22</sup> which was chosen as one of 500 best Web sites for 2002 by CareerXroads, a directory of job, résumé, and career management sites. As we point out in the discussion that follows, the ACHE is especially appropriate as a potential benchmark for the NAA because it is a similar organization in several key respects and has successfully dealt with a number of the issues that the Academy currently faces.

#### **Rationale for Maintaining Restrictive Membership Requirements**

Although a case can be made that a new membership paradigm would increase membership and enhance the viability of the NAA, a case can also be made for maintaining the status quo. If the Academy can maintain its current membership level and the membership can viably retain its status as the preeminent labor arbitration voice in the United States, then there is no need for change.

Aside from the fact that the NAA may not need operational changes, there are other advantages in maintaining the status quo. One benefit is that it is easier and less costly to manage the Academy as is. A membership paradigm that involves several membership levels, like that of the ACHE to be discussed with our recommen-

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<sup>20</sup>The balance of the comments are available upon request via e-mail to scrow@uno.edu.

<sup>21</sup>E-mail from Tom Cox dated Feb. 14, 2002. You can visit and shoot holes in his Web site at <<http://www.golfballs.com>>.

<sup>22</sup>View at <<http://www.ache.org>>.

dations, is a labor-intensive undertaking. To manage and market an ACHE-like paradigm could double membership, but it would probably require a new management structure, including a full-time, highly paid executive and a larger, more expensive staff.

Another benefit for maintaining the status quo is competition. The number of labor arbitration cases has declined over the years. With more and more arbitrators chasing fewer and fewer arbitration dollars, it may be in the best interests of NAA members to discourage people from becoming labor arbitrators. The economic motive is a powerful imperative for discouraging others from becoming labor arbitrators.

Last, considering that the NAA has not changed a great deal in decades, managing it as is would be considerably easier than rocking the boat over membership requirements. The introduction of significant change in any organization requires a restructuring of the culture of that organization. And, in the process of change, a discussion of issues can deteriorate into organizational fratricide. In an organization like the Academy, where the leadership changes annually, it would take an unusually determined soul to take on such issues.

Our conclusion is that the NAA's inclination is for maintaining the status quo. As Nolan noted in his paper, a prominent member (and presumably a senior citizen) of the Academy suggested that members should remain loyal to their way of doing things "even if it mean[s] phasing out in the next decade. . . . [When] we get too small we should fold."<sup>23</sup> If this individual's feelings are typical, changing the status quo will be anathema to many of the members.

#### **Adverse Impact Associated With the Status Quo**

Our inclination is for continuous improvement through change. We agree with Bruce Barton, American advertising executive, author, and politician, who suggested that once we become unwilling to change, we should not stand in the way of others striving for improvements in organizations.<sup>24</sup> Organizations that do not change are best remembered by their decline and fall.

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<sup>23</sup>Nolan, *The National Academy of Labor and Employment Arbitrators?*, in *Arbitration 1999: Quo Vadis? The Future of Arbitration and Collective Bargaining*, Proceedings of the 52nd Annual Meeting, National Academy of Arbitrators, eds. Grenig & Briggs (BNA Books 2000), 57.

<sup>24</sup>Barton, *The Man Nobody Knows* (Ivan R. Dee 2000) (original published 1925).

We believe that maintaining the status quo would be a strategic mistake that in the long run could result in the NAA being, at best, irrelevant, and at worst, a footnote in labor arbitration history. We agree with Nolan that the Academy could become so small that it loses its prestige and influence or, in a worst-case scenario, that it would have to fold. More specifically, the NAA could be “upstaged by a new association with a broader mission . . . [and therefore will have] no choice but to expand or disappear . . . . [The decline in membership could be so steep that there will be] no Academy in 10 or 20 years if we stick strictly to our current course.”<sup>25</sup> In short, the NAA seems to be in the last stages of the organizational life cycle—decline—with no visible signs of a commitment to a program for renewal.

Even assuming that decline does not represent an immediate strategic threat, by maintaining the status quo, Academy membership requirements have the potential for adverse impact on various groups, and for public embarrassment. As one person commented by e-mail, “Academy members do not look like America.” If not, NAA members are in a paradoxical position of hearing cases regarding discrimination and adverse impact, while at the same time they could be accused of practicing “not in my neighborhood.”

We have to wonder if the NAA has not already reached a point of no return with respect to attracting and keeping quality members. What are the consequences if the perception of the Academy is that its power structure is dominated by people who obstruct change for economic or social reasons or for reasons relating to the aging process? What are the consequences if those who have a stake in the field of arbitration see no rewards for belonging to the Academy and no consequences for not belonging? The answers to those questions may discourage younger and more diverse people from joining the NAA. When one couples that with the impact of the high average age of the membership, the Academy may cease to exist sooner than Nolan predicts.

### **Recommended Membership Model**

The NAA’s requirements for membership are like those of an exclusive country club. With these clubs, there is only one level of

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<sup>25</sup>Nolan, *supra* note 23, at 63–64.

membership—and an “all or nothing” membership criteria (usually not apparent to outsiders) designed to discourage all but the “right” people. In effect, the country club system is a culling process. The club does not want the best available people as members—its objective is to cull those who do not fit a particular profile. Bill Gates, with all his billions, might find it difficult to become a member of the Augusta National Golf Club. The country club system works only in those cases where the organization has a great deal to offer in the way of intrinsic and extrinsic benefits.

The NAA’s requirements are daunting for most practicing labor arbitrators. An applicant either has the necessary quantity and quality of cases or does not. Granted, as is the case in exclusive country clubs, there is probably some flexibility in the Academy’s choice of members. However, those who are not connected to the NAA in some way will find it difficult to work the system to their advantage. Academy members are an exclusive group, but, as mentioned earlier, the NAA does not have many intrinsic and extrinsic benefits that appeal to the younger people in the field.

To survive, the NAA may need to adopt a more inclusive membership model. The membership model of the ACHE may hold promise for the Academy.<sup>26</sup> A “prestige” organization that limits its membership to professionals in its field—here, health care—membership in the ACHE is expected to bestow credibility on the practitioner. Yet the ACHE has managed to remain a vibrant organization that attracts a diverse and younger membership. We have already noted one vehicle for its success—its Web page. Of far more importance, we suspect, is the way the ACHE approaches membership.

The ACHE has six levels of membership. Entry into the lower levels is relatively easy. Access to the two upper levels, Diplomate and Fellow, is challenging—the criteria require increasingly higher levels of executive education and expertise. The advantage of the ACHE model is that it is more inclusive, and its members “look more like America” than do exclusive, homogeneous organizations.

What’s the “hook” for membership in the ACHE? Where’s the reward? Much of the reward involves credentialing. Credentialing is an important part of success in the health care field. A Diplomate is recognized as a Certified Healthcare Executive (CHE), and a

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<sup>26</sup>Membership information is available at <<http://www.ache.org/membership.cfm>>.

Fellow is recognized as a Fellow of the American College of Healthcare Executives (FACHE). These credentials are important for upward mobility in the health care field. Obviously, similar ideas could be applied to the Academy.

Here is a tentative model for the NAA based on the ACHE benchmark. It may not be the best model for the Academy, but it's a place to start. A model like this could make room for a larger and more heterogeneous membership, assuming the Academy could build in some form of intrinsic and extrinsic rewards for members. The model could include labor arbitrators as well as other arbitrators, labor and management advocates, administrators in government or private agencies that provide services to people in industrial relations (e.g., the FMCS, the National Labor Relations Board, the U.S. Department of Labor, the American Arbitration Association), educators and students in industrial relations, and others who have a stake in industrial relations.

#### *Fellow*

To be eligible as a Fellow, the member would have to have 3 years of tenure as a Diplomat in good standing, 50 criteria-based cases in the previous 8 years, evidence of participation and leadership in industrial relations affairs, and three references from NAA Fellows.

#### *Diplomat*

To be eligible as a Diplomat, the member would have to have 3 years of tenure as a member in good standing, 25 criteria-based cases in the previous 5 years, evidence of participation and leadership in industrial relations affairs, and three references from NAA Fellows.

#### *Member*

To be eligible as a Member, the applicant would have to have experience as an arbitrator, mediator, management or labor advocate, or an administrator of a government or private agency that provides services to people in industrial relations.

#### *Faculty Associate*

To be eligible as a Faculty Associate, the applicant would have to be in a full-time position with an appointment in a graduate or undergraduate program in an industrial relations field.

*Recent Graduate*

To be eligible as a Recent Graduate, the applicant would have to have a bachelor's degree in an industrial relations field. Experience in an industrial relations field is waived for those who graduate within the previous 12 months.

*Student Associate*

To be eligible as a Student Associate, the applicant would have to be enrolled full-time or part-time in a 4-year program in an industrial relations field that leads to a baccalaureate degree, or be enrolled as a graduate student in such a program. Experience in an industrial relations field would not be required.

This model may be too ambitious for the NAA. After all, it would require a great deal of administration and resources to manage. A more reasonable alternative may be to focus only on members who have a link to labor arbitration, for example, practicing labor arbitrators, labor arbitrators in training, labor and management advocates, and educators and students involved in labor arbitration education or research.

**Conclusions**

In this chapter we have reviewed a wide range of symptoms that suggest that the NAA may be entering into organizational decline. We consider work by Nolan, the results of our e-mail survey, as well as data and observations that suggest declining numbers, advancing age, homogeneity in membership, and rigidity in response to support our claims. We observe, as well, that the symptoms we report correspond closely to the theoretical frameworks for organizational decline proposed by Guy and others. We have recommended that the NAA begin a dialogue, under the leadership of outsiders, to reconsider its strategic direction, especially with respect to membership. Such an examination, if undertaken in a timely and objective manner, could ensure that the NAA retains and revitalizes its position of leadership in the years to come.

## Appendix 1

### Academy Membership Requirements<sup>27</sup>

1. The applicant should be of good moral character . . . .
2. The applicant should have substantial and current experience as an impartial arbitrator of labor-management disputes . . . .

. . . .  
[As] a threshold requirement [for consideration, an applicant must have] at least five years of arbitration experience and a minimum of 50 diverse “countable” arbitration cases during that five-year period. Multiple cases before the same parties or in the same industry do not meet the general acceptability criterion.

To be “countable,” cases generally should satisfy the following requirements:

- The arbitrator was selected by the parties and paid by the parties;
- The arbitrator conducted a full evidentiary hearing which included the examination and cross-examination of witnesses;
- The parties expressed no limitations upon the length or depth of the arbitrator’s written decision;
- The arbitrator issued a written award and opinion with supporting rationale fully laid out. A decision in which the arbitrator presented an oral, abbreviated or condensed explanation of the rationale supporting it does not count toward admission;
- The award must be final and binding upon the parties. Fact-finding and other advisory opinions do not count towards admission.

[Expedited cases must] meet each and every requirement stated above . . . . Most expedited cases that do not count are excluded because they fail to satisfy the full evidentiary hearing and/or the full-blown decision requirements.

3. As an alternative to item 2 above, the applicant with limited but current experience in arbitration should have attained general recognition through scholarly publication or other activities as an important authority on labor-management relations.

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<sup>27</sup>Condensed from the NAA Web site, at <<http://naarb.org/require.html#menu>>.

**Appendix 2****E-mail Inquiry to AAA, FMCS, and  
Academy Arbitrators**

My colleague Dr. Sandra J. Hartman and I have the good fortune of support for research. I am a labor arbitrator on the panels of AAA and FMCS. Dr. Hartman and I have a good record of research in a variety of areas. We are interested in research issues related to membership and/or the future of the National Academy of Arbitrators. For example, the suitability of employment arbitrators as members of the Academy; the reasonableness of qualifications for membership in the Academy; the need for more inclusion in the future of the Academy; and other related membership and/or future issues.

In your opinion, are there issues with respect to membership and/or the future of Academy that invite more research? If so, what are the issues and where might Dr. Hartman and I look to begin accumulating a related literature?

You may respond directly by e-mail or contact me by mail, fax, or phone.

Thank you for your help.

Professor Stephen M. Crow  
Department of Management  
University of New Orleans