

Dear Sangha and Dharma Friends,

January 28, 2013

The Zen Studies Society Board of Directors would like to provide you with an update on several significant issues and challenges currently facing the Zen Studies Society.

As most of you are aware, we asked Eido Shimano Roshi, the Founding Abbot of the Zen Studies Society, to resign from the Board in July of 2010 after a student revealed an affair with him. He acknowledged that breach of our ethical guidelines, and the Board duly reported the sexual misconduct incident to our insurance company. We also asked Eido Roshi to retire as Abbot of the Zen Studies Society; he did so in December 2010, and Shinge Roko Sherry Chayat Roshi was appointed Abbot on January 1, 2011.

While we fully acknowledge and are deeply saddened by this incident and allegations of other ethical breaches on Eido Roshi's part, we do remain grateful for his visionary work in founding New York Zendo and Dai Bosatsu Zendo and for his five decades of inspiring teaching. We wanted to provide appropriate care for our teacher and his wife, Aiho Yasuko Shimano, after their retirement, and we trusted that we could come to a harmonious and reasonable agreement with them on a retirement pension. We have since tried in good faith to negotiate a retirement settlement with a succession of five different attorneys representing the Shimanos. Progress has been quite slow, and we have been required to keep these discussions confidential.

Then on January 3 of this year, through their newest attorney, the Shimanos filed a multi-million-dollar public lawsuit against the ZSS. We are profoundly disappointed in the court suit filed by the Shimanos, but will continue to seek a settlement that supports our non-profit financial responsibilities appropriately. Litigation is a very expensive process; we intend to finance a defense that protects the mission and well-being of the ZSS in a manner guided by Board Best Practices and non-profit standards.

As a result of this filing of a public lawsuit, confidentiality has been lost. We are now able to share more information on how we have moved to address Eido Roshi's ethical misconduct and negotiate our financial responsibilities to him. The details about the lawsuit and the history of our financial negotiations with the Shimanos are as follows:

- The lawsuit filed by the Shimanos in January of this year charges ZSS with discontinuing to pay them according to a Deferred Compensation Agreement (DCA), which Eido Roshi presented to the Board in December 2010, when he was about to retire. Although the DCA had been written in 1995, it wasn't signed until the year 2000 (by then-Vice Abbot and Board President Jiro Fernando Afable). No financial planning to support the agreement was done, and no funds were ever put aside for it by former Boards that were led by Eido Roshi.
- The DCA called for a pension of 70 percent of Eido Roshi's and Aiho-san's final year of salary, plus ongoing housing costs, life insurance, housing insurance, health insurance, phone, and utilities. The DCA mandated a four percent annual salary increase, and we anticipated that the annual costs other than salary would increase proportionately, if not at a higher rate. One of our projections showed DCA expenses would exceed \$1.8 million dollars over the first fifteen years (starting in 2011). The DCA is for life, though, so the duration and total payments could not be known with any degree of certainty.
- The Board made monthly payments to the Shimanos during 2011 and most of 2012, while attempting to restructure the unfunded DCA into something more manageable. In 2011, direct payments to the Shimanos and other costs associated with support of the DCA totaled \$98,534.57. Note: Sangha donations were not used for those payments; they have been used only for operating costs at our two facilities. During this period, we communicated to Eido Roshi on numerous occasions our concern regarding the lack of funding for the DCA.
- In addition, there are serious issues concerning both the validity of the DCA and whether it is appropriate to make payments under the DCA when Eido Roshi may be liable to the Society for actions he has taken that have harmed the Society.
- In August 2012, we were advised to discontinue pension payments to the Shimanos until a settlement could be reached through legal negotiations. We are continuing to pay their health insurance premiums.
- In December of 2012, the ZSS Board advanced a proposal for binding arbitration to decide a fair settlement. On January 3, 2013, the Shimanos rejected arbitration, and brought a multi-million-dollar lawsuit against the Zen Studies Society that includes a demand to pay the DCA in full as well as actual and punitive damages regarding their claim of ownership of buddhas, gongs, scrolls, and other items required for daily practice at the ZSS's centers.

We wish to share additional information about how the ZSS Board has addressed Eido Roshi's ethical misconduct:

- In September 2010, the ZSS Board turned to the Faith/Trust Institute (FTI) for professional guidance in responding to Eido Roshi's sexual misconduct. In early September of that year, FTI led a meeting with Eido Roshi and the Board, as well as with the Sangha and the Board, at New York Zendo Shobo-ji. Their recommendations were: 1) that Eido Roshi end his tenure as Abbot; 2) that any students who wished to study with him could do so, but not under ZSS auspices; 3) that he make a public apology acknowledging his misconduct and his regret for harm done to ZSS; 4) that a formal financial audit for ZSS be undertaken; 5) that new ZSS leadership consult with Zen colleagues who had gone through similar restructuring to address misconduct issues; and 6) that the Board read Marilyn R. Peterson's *At Personal Risk: Boundary Violations in Professional-Client Relationships*. All of these recommendations were followed (see below for a progress report on the audit process).
- Regarding Point 3, Eido Roshi did send an open letter of apology to the Sangha following the FTI meetings in September. However, many members had left after the 2010 announcement of the teacher-student affair, never to return. ZSS fundraising and sesshin attendance were badly affected by the negative publicity involving that most recent incident and the accompanying renewed attention to past allegations of sexual misconduct.
- In December 2010, Eido Roshi wrote a letter to *The New York Times* that accused Mark Oppenheimer, the journalist who wrote an article about the teacher-student affair that Eido Roshi himself had previously openly acknowledged, of "obtaining his information from second and third-hand sources." In this letter, Eido Roshi stated, "the opinions expressed therein are neither factual nor backed up by proof," adding, "I have not resigned because of these false accusations." His letter to the *Times*, while not published there, found its way to the Internet, resulting in a further deterioration of the ZSS's reputation in the Buddhist community at large and in a huge wave of letters to the ZSS Board (many in the form of open letters published on the Internet) calling for Eido Roshi's immediate removal.
- As a result of these developments, Eido Roshi was asked not to participate in sesshins at DBZ or Shobo-ji, and the Board established a restricted access policy for him: visits were to be made only when necessary, and required a formal request and approval as well as supervision by a Board member or designated person. We did not wish to put any student at risk, and furthermore we had been advised that his unsupervised presence would be an insurance liability for the Society.
- In May 2011, Board members held a meeting with Eido Roshi mediated by the founder of An Olive Branch to discuss allegations of sexual misconduct and a way forward. The Board wished to acknowledge problems and address them. Eido Roshi refused to work further with the Board on this topic.
- At the end of August 2011, Shinge Roshi hosted an Open Sangha meeting, facilitated by An Olive Branch, at Dai Bosatsu Zendo. The goal was to address openly all concerns and issues, acknowledge past failures, and to seek Sangha feedback on how best to move forward. A historical timeline of ZSS events was presented, developed, and discussed. Attendees had the opportunity to bring up any and all issues of ethical misconduct. During this meeting many instances of affairs between Eido Roshi and his students over the years were referenced.
- In October 2011, Shinge Roshi wrote an open letter of apology, saying, "In the weeks since our Sangha Weekend facilitated by An Olive Branch, I know we have been feeling deeply saddened by what we heard. I want to express my sorrow for those harmed by affairs with their teacher, for the many who have suffered feelings of betrayal and disillusionment, and for the ensuing bitterness and divisiveness that have occurred...."
- In January 2012, new members with professional non-profit experience joined the ZSS Board. Three facilitators from An Olive Branch led the Board in a Non-Profit Best Practices weekend retreat at Dai Bosatsu Zendo in August 2012, and in an all-day Mission, Vision, Values retreat at New York Zendo in October 2012.

In addition, regarding current ZSS finances, ZSS board representatives met with Citrin Cooperman, an audit firm, in October 2012 to review ZSS financial procedures for 2011 to ensure that ZSS employs Best Practices in its accounting processes. We have retained Citrin Cooperman to conduct an audit of the 2012 books. We are also working closely with Veris Consulting, a specialist in non-profit accounting, on improving our system and procedures. Additionally, during the past two years the Board has engaged Goetz Fitzpatrick, LLC and the Law Offices of Eric Grannis to ensure that the Board maintains the highest fiduciary standards.

The events of these past few years have caused serious blows to our ability to raise the funds necessary for the continued operation of our temples. As a result, even discounting the financial liability of having to defend the Society from the Shimanos' litigation, we are now considering whether the sale of assets may be necessary. Please be assured, however, that we are doing everything possible to insure that our centers will weather these challenges and go on to a bright and vibrant future.

Despite our present difficulties, there is great enthusiasm for the practice at both New York Zendo Shobo-ji and Dai Bosatsu Zendo Kongo-ji. We just finished a dynamic and restorative Martin Luther King Jr. Weekend Sesshin at Shobo-ji, with 30 participants. Many of the 33 students who participated in December's Rohatsu Sesshin at DBZ said it was one of the best they had ever attended. We had an excellent group of fifteen residents during our last training period at DBZ, with three ordinations; eight students will be receiving the Precepts on the last day of Holy Days Sesshin this April.

We humbly request the continuing support and counsel of the Sangha. We will keep you updated as we continue to do our best to uphold our ethical, administrative, and fiduciary responsibilities to the Zen Studies Society.

We wish you good health and happiness in the New Year. May 2013 bring a peaceful resolution and ever-deepening practice.

Let True Dharma Continue!

Gassho,
The Zen Studies Society Board of Directors:
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