



George Kirikos <gk@leap.com>

Concerns to RPM Chairs re: Kurt Pritz postings5 messages

George Kirikos <icann@leap.com>

Sat, Sep 2, 2017 at 1:16 PM

To: Kathy Kleiman <kathy@kathykleiman.com>, Phil Corwin <psc@vlaw-dc.com>, "J Evans (jsevans@adobe.com)" <jsevans@adobe.com>

Cc: Mary Wong <mary.wong@icann.org>, Kurt Pritz <kurt@kjpritz.com>

I write to you as Chairs of the RPM working group to express my concerns about the recent postings by Kurt Pritz (who I've cc'd this email; unlike some who make their complaints in private, I will give Kurt a chance to tell his side of the story, if he wants to, so that you have the full context and both sides), who made specific and demonstrably false statements about me. Despite repeated requests (both on the public list and off list), he has not withdrawn or corrected the false statements.

The relevant public posts in question are at:

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002435.html> (by Kurt)

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002439.html> (my response)

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002440.html> (by Kurt)

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002441.html> (my response)

With Kurt's permission, I'd be happy to send you a copy of all the emails we exchanged in private (only a 6 page PDF, for the 6 emails, 2 from him and 4 from me), whereby I attempted to amicably resolve the matter (and which also provide further details on the postings in question). Kurt had indicated yesterday that he would try to write something yesterday, which I took as a positive development. But more than a day later he hasn't. I told him yesterday morning I would not wait indefinitely (I had been planning to make this complaint yesterday at noon Toronto time).

What he wrote was a complete fabrication, a very precise fabrication (not some general statement with some wiggle room that's open to interpretation), and provably false (one can check all the relevant posts on the mailing list to confirm whether or not the EFF paper was ever referred to as "justification" for elimination of the sunrise periods, or even referenced at all).

In my view, it went well over the line of what is acceptable. Things like "tone" can be debated. But, outright fabrications? No one should be entitled to use that as a debating tactic, nor simply walk away from that conversation after the statement has been made, leaving in doubt to observers what is true and what isn't true. No one should have to be put to the time and effort to defend against such total fabrications.

If my understanding of where the "line" is drawn is incorrect, and his

postings are acceptable, then I want a clear statement from the Chairs so that I know where that line is drawn. If my understanding about where the line is drawn is correct, then I leave it to your discretion as to what has to be done. If you look at what I wrote in public (and what I also asked in private, which I'd be happy to send over), it was simply that he correct or withdraw the false statements. No apology necessary. No "drama". No lengthy explanation is required --- just a simple sentence (e.g. "You're right, I withdraw the statement").

Note in particular that my only concern is about the statements he made -- I have no personal opinion on Kurt himself or his character, just the specific statements. As I told him in private, his behaviour on this list has otherwise been unblemished and exemplary, so I'm perplexed at the entire situation.

I understand it's a long weekend, and we can followup on this next week.

Sincerely,

George Kirikos
416-588-0269
<http://www.leap.com/>

Mary Wong <mary.wong@icann.org>

Tue, Sep 19, 2017 at 5:23 PM

To: George Kirikos <icann@leap.com>

Cc: Kathy Kleiman <kathy@kathykleiman.com>, "J. Scott Evans" <jsevens@adobe.com>, Phil Corwin <psc@vlaw-dc.com>, Amr Elsadr <amr.elsadr@icann.org>, Kurt Pritz <kurt@kjpritz.com>

Dear George,

Please see below for a message sent on behalf of the RPM Working Group co-chairs.

Dear George,

Thank you for your note of 2 September 2017 describing your concerns about the recent exchange between you and Kurt Pritz on the RPM Working Group mailing list; specifically, that Kurt had stated incorrectly in an email dated 31 August to the mailing list that you had relied on the recent study from the Electronic Frontier Foundation to support your view that the Sunrise RPM should be eliminated. As co-chairs of the Working Group, we have reviewed all the emails about that incident. We note that you sent a correction regarding Kurt's statement to the mailing list later that same day, and that you and Kurt then exchanged another set of emails with each of you clarifying your positions.

Based on our review of those exchanges, we do not believe that Kurt violated ICANN's Expected Standards of Behavior in this case. We consider our role as co-chairs to include intervening only when a Working Group member's conduct amounts to dilatory or disruptive behavior, or otherwise contravenes the ICANN standards. We do not believe it is appropriate for us as co-chairs to intervene in disputes between members over facts or policy conclusions.

As everything pertaining to that incident is on the public record, we therefore do not think that any further action by the co-chairs is warranted in this case. We note also that we have sent reminders to the Working Group mailing list about the need for everyone to observe ICANN's Expected Standards of Behavior, and we hope that all members will continue to engage in respectful and thoughtful debate.

Sincerely,

Kathy, Phil and J. Scott

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George Kirikos <icann@leap.com>

Tue, Sep 19, 2017 at 7:04 PM

To: Mary Wong <mary.wong@icann.org>

Cc: Kathy Kleiman <kathy@kathykleiman.com>, "J. Scott Evans" <jsevans@adobe.com>, Phil Corwin <psc@vlaw-dc.com>, Amr Elsadr <amr.elsadr@icann.org>, Kurt Pritz <kurt@kjpritz.com>

While you state that you "do not believe it is appropriate for us as co-chairs to intervene in disputes between members over facts or policy conclusions.", the public warning last year to Mr. Schreiber:

<http://mm.icann.org/pipermail/gnso-rpm-wg/2016-May/000266.html>

told me something completely different, given that there was immediate intervention when false statements were made about Mr. Shatan and Mr. Corwin, and that inherently was a violation of the ICANN Expected Standards of Behavior.

"Accusing Mr. Shatan and Mr. Corwin of being the "the batmen [soldier-servants]" for CentralNic is not only a false charge but is, in our view, a violation of the ICANN Expected Standards of Behavior, which requires that "Those who take part in ICANN multi-stakeholder process...undertake to... treat each other with civility both face to face and online... Act in a reasonable, objective and informed manner when participating in policy development and decision-making processes... Act fairly and in good faith with other participants in the ICANN process".

So, it seems that there's a double-standard here. When folks make up false statements about Mr. Shatan or Mr. Corwin, the co-chairs will intervene to correct the "facts", and indeed penalize the person making those false statements. That intervention was swift, too (dated May 9, 2016, responding to a post of May 7, 2 days earlier), compared to this response to me 17 days after my September 2nd email.

The ICANN Expected Standards of Behaviour:

<https://www.icann.org/resources/pages/expected-standards-2016-06-28-en>

is written in broad terms, but the co-chairs themselves previously highlighted the words above "reasonable", "objective", "informed manner", and "good faith" -- terms that seem entirely inconsistent with those made by Mr. Pritz in his posts. How can a demonstrably false (the timelines are all public) statement about another working group member (not general facts, like GDP or economic statements, but specific false statements about a *member*) be "reasonable", or "objective" or be done in an "informed manner" or be "in good faith"?

Indeed, the "line" appears to be drawn very differently depending on the circumstances or the people involved. When Greg Shatan alluded to the "Jane you ignorant slut" quote from Saturday Night Live (I had to Google that, as it was before my time, although Rebecca seemed aware of it):

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002436.html>

that was apparently entirely acceptable.

I know that the co-chairs do not want to be referees, but I find it very confusing as a good faith participant in this PDP when I see these double standards.

In the future, should more false statements about me be posted by Mr. Pritz or anyone else, I trust that I shall have broad latitude to respond and defend myself, given that the co-chairs have essentially decided that they will not intervene when those false statements are made (in effect, permitting them to be made without repercussions).

Sincerely,

George Kirikos
416-588-0269
<http://www.leap.com/>

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Kathy Kleiman <kathy@kathykleiman.com>

Wed, Sep 20, 2017 at 9:33 AM

To: George Kirikos <icann@leap.com>, Mary Wong <mary.wong@icann.org>
Cc: "J. Scott Evans" <jsevans@adobe.com>, Phil Corwin <psc@vlaw-dc.com>, Amr Elsadr <amr.elsadr@icann.org>, Kurt Pritz <kurt@kjpritz.com>

Dear George,

I think threatening various members of the WG and WG leadership with law suits is materially different than misstating which source you cited from EFF. You corrected that misstatement very well. I don't think that anyone is confused.

I value your contributions, we all do, and they are an important part of the working group. We have a long way to go together -- a whole marathon -- and trust that we will do so together with respect and patience.

Best regards, Kathy

[Quoted text hidden]

George Kirikos <icann@leap.com>

Wed, Sep 20, 2017 at 10:34 AM

To: Kathy Kleiman <kathy@kathykleiman.com>
Cc: Mary Wong <mary.wong@icann.org>, "J. Scott Evans" <jsevans@adobe.com>, Phil Corwin <psc@vlaw-dc.com>, Amr Elsadr <amr.elsadr@icann.org>, Kurt Pritz <kurt@kjpritz.com>

Dear Kathy,

The reasons given for the public warning to Mr. Schreiber, see the email attachment to

<http://mm.icann.org/pipermail/gnso-rpm-wg/2016-May/000266.html>

did not refer to "threatening various members of the WG and WG leadership with law suits ". They do refer to the "false charges" and prior to that "mischaracterization".

Perhaps I did not make it clear enough (I did invite you to look at the 6 pages of private correspondence between Mr. Pritz and I, and asked Mr. Pritz's permission to share his brief replies in those emails; I can provide a redacted version, without his emails, but that would be one-sided). While you say "You corrected that misstatement very well. I don't think that anyone is confused.", my point was that I shouldn't have had to respond to it at all --- i.e. no one should be forced to respond to false statements like that. The statement shouldn't have been made in the first place.

By doing nothing in this instance (unlike the instance with Mr. Schreiber involving Mr. Corwin and Mr. Shatan), you're basically giving permission to others to make false statements without repercussions, as a debating tactic.

Here's what I wrote before:

"In my view, it went well over the line of what is acceptable. Things like "tone" can be debated. But, outright fabrications? No one should be entitled to use that as a debating tactic, nor simply walk away from that conversation after the statement has been made, leaving in doubt to observers what is true and what isn't true. No one should have to be put to the time and effort to defend against such total fabrications."

Put yourselves in my shoes. Is it fine for someone else to fabricate things about you, compelling you to respond? And then when you do respond, instead of withdrawing the statement (to remove any doubt), they follow up in a manner similar to what Mr. Pritz wrote, to cause doubt, rather than to clarify the truth? I can make up some examples of a fabrication about you, if you'd like, to see how you'd react to them.

You write about "respect" and "patience" --- how is it showing "respect" to not withdraw the false statement? I shouldn't have to wait nearly 3 weeks to have this resolved, either -- that's testing my patience, given Mr. Pritz told me he would try to write something on September 1st (but didn't), and it is now September 20.

You wrote "I don't think that anyone is confused." -- I'm very confused as to why the Co-Chairs seem to be drawing the line differently in this case, to make Mr. Pritz's emails acceptable conduct on this mailing list.

Furthermore, you characterize the false statement as merely a "misstatement", perhaps to delegitimize my concerns. This was no mere

slip of the tongue (or keyboard, since it was email). Go back and read exactly what he wrote:

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002435.html>

"1) George refers to the EFF and in past emails has particularly referred to the EFF white paper, "Which Internet registries offer the best protection for domain owners?" as justification for eliminated the Sunrise RPM. In my opinion, that paper contains platitudes, no independent data, and contains half-truths and, also in my opinion, seems more like a guide for those who wish to conduct illicit behavior with the least possible interference from governments or well-intentioned watchdog organizations. Yet, because it is "published," this is the source cited often on this list as authority for eliminating Sunrise. The EFF does good work and I support many of its positions but not in this case."

That's quite an elaborate fabrication. What if we replaced the word "George" in that paragraph with "Kathy" or changed something else about that paragraph to undermine your credibility via a falsehood? As was the followup:

<http://mm.icann.org/pipermail/gnso-rpm-wg/2017-August/002440.html>

"I remember Jeremy describing the paper. I was referring to the email chain you started entitled on the heels of that paper, "99%+ reduction in sunrise utilization rate per TLD supports EFF call for elimination of sunrise," that, to me, established a link between your arguments and the paper. "

Why don't you simply tell me --- under what circumstances is it ok to completely fabricate a story about another PDP member? I'd really like to know, because to me, that's unacceptable if it's not accompanied by a swift retraction.

Sincerely,

George Kirikos
416-588-0269
<http://www.leap.com/>

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