

Subject: Re: [reconsider] Reconsideration Request 17-1

Date: Friday, April 7, 2017 at 3:58:58 PM Pacific Daylight Time

From: Herb Waye (sent by reconsider-bounces@icann.org <reconsider-bounces@icann.org>)

To: Reconsideration

CC: ombudsman

Reconsideration Request 17-1

Pursuant to Article 4, Section 4.2(l)(iii), I am recusing myself from consideration of Request 17.1.

Best regards,

Herb Waye
ICANN Ombudsman

[https://www.icann.org/ombudsman\[icann.org\]](https://www.icann.org/ombudsman[icann.org])

[https://www.facebook.com/ICANNOmbudsman\[facebook.com\]](https://www.facebook.com/ICANNOmbudsman[facebook.com])

Twitter: @IcannOmbudsman

ICANN Expected Standards of Behavior:

[https://www.icann.org/en/system/files/files/expected-standards-15sep16-en.pdf\[icann.org\]](https://www.icann.org/en/system/files/files/expected-standards-15sep16-en.pdf[icann.org])

Community Anti-Harassment Policy

[https://www.icann.org/resources/pages/community-anti-harassment-policy-2017-03-24-en\[icann.org\]](https://www.icann.org/resources/pages/community-anti-harassment-policy-2017-03-24-en[icann.org])

Confidentiality

All matters brought before the Ombudsman shall be treated as confidential. The Ombudsman shall also take all reasonable steps necessary to preserve the privacy of, and to avoid harm to, those parties not involved in the complaint being investigated by the Ombudsman. The Ombudsman shall only make inquiries about, or advise staff or Board members of the existence and identity of, a complainant in order to further the resolution of the complaint. The Ombudsman shall take all reasonable steps necessary to ensure that if staff and Board members are made aware of the existence and identity of a complainant, they agree to maintain the confidential nature of such information, except as necessary to further the resolution of a complaint

From: Reconsideration <Reconsideration@icann.org>

Date: Friday, April 7, 2017 at 3:46 PM

To: Herb Waye <herb.waye@icann.org>

Cc: Reconsideration <Reconsideration@icann.org>

Subject: Reconsideration Request 17-1

Dear Herb,

ICANN recently received the attached reconsideration request (Request 17-1) (which was submitted on 9 March 2017 and subsequently updated on 16 March 2017) by Russ Smith seeking reconsideration of ICANN Contractual Compliance's investigation of a Whois Service Level Agreement (SLA) complaint concerning the domain name directorschoice.com[directorschoice.com]. The Board Governance Committee (BGC) has determined that Request 17-1 is sufficiently stated pursuant to Article 4, Section 4.2(k) of the ICANN Bylaws. Pursuant the Article 4, Section 4.2(l) of the ICANN Bylaws, a reconsideration request must be sent to the Ombudsman for consideration and evaluation if the request is not summarily dismissed following review by the BGC to determine if the request is sufficiently stated. Specifically, [Section 4.2 \(l\)\[icann.org\]](#) states:

(l) For all Reconsideration Requests that are not summarily dismissed, except Reconsideration Requests described in [Section 4.2\(l\)\(iii\)](#) and Community Reconsideration Requests, the Reconsideration Request shall be sent to the Ombudsman, who shall promptly proceed to review and consider the Reconsideration Request.

- (i) The Ombudsman shall be entitled to seek any outside expert assistance as the Ombudsman deems reasonably necessary to perform this task to the extent it is within the budget allocated to this task.
- (ii) The Ombudsman shall submit to the Board Governance Committee his or her substantive evaluation of the Reconsideration Request within 15 days of the Ombudsman's receipt of the Reconsideration Request. The Board Governance Committee shall thereafter promptly proceed to review and consideration.
- (iii) For those Reconsideration Requests involving matters for which the Ombudsman has, in advance of the filing of the Reconsideration Request, taken a position while performing his or her role as the Ombudsman pursuant to [Article 5](#) of these Bylaws, or involving the Ombudsman's conduct in some way, the Ombudsman shall recuse himself or herself and the Board Governance Committee shall review the Reconsideration Request without involvement by the Ombudsman.

Please advise whether you are accepting Request 17-1 for evaluation or whether you are recusing yourself pursuant to the grounds for recusal set forth in Section 4.2(l)(iii). If you are accepting Request 17-1 for evaluation, please note that your substantive evaluation must be provided to the BGC within 15 days of receipt of Request 17-1.

Best regards,
ICANN
12025 Waterfront Drive, Suite 300
Los Angeles, CA 90094