

**N-SSA JUDGE ADVOCATES REPORT
JANUARY 30, 2010**

NARRATIVE OF EVENTS

Because of a controversy resulting from events at the August 2009 BOD meeting, the Judge Advocates were directed by the National Commander to conduct an investigation and report their findings and recommendations to the BOD at its January 2010 meeting.

The investigation began in August and was carried on through the fall National. Personal interviews were conducted and documents and correspondence were extensively reviewed. The report, which follows, addresses the incident and the controversy that ensued, relevant preexisting factors, and Judges Advocates' findings and recommendations. Although certain key findings and recommendations are summarized elsewhere, this entire narrative consists of findings of fact that are part of and integral to any that are set forth separately.

AUGUST 1, 2009 BOARD OF DIRECTORS MEETING

In open meeting session, a report in letter form (referred to herein as "the letter") was distributed for the first time to the BOD by Mr. Stanley, N-SSA Bulletin Board Moderator. The letter's subject was postings made on the N-SSA chatboard; it had been drafted principally by Ms. Willauer, the Executive Secretary, and was signed by Mr. Stanley. The letter consisted primarily of opinions expressed by certain board moderators and by the Executive Secretary concerning posts considered by them to be inappropriate, divisive, abusive, and detrimental to the organization. However, the letter went on to specifically assign blame for these messages, identifying by name an individual, a unit, and a region as principal culprits. In this regard the letter contained misstatements of material fact, and thus became the proximate cause of the heated controversy that ensued.

The National Commander knew prior to the meeting that a report on this subject would be presented, but he did not write the letter or direct that it be written, and he did

not receive a copy until the day of the meeting. A conversation between Commander McMahon and Mr. Stanley resulted in a decision to present the letter in open session.

Shortly before it was presented, Mr. Stanley gave a copy of the letter to Mr. Hubbard, Regional Commander of NWT (the region named in the letter), explaining that he did not intend to "blindsides" him. Mr. Stanley suggested that Mr. Hubbard might be unhappy with some of the letter's content, a prediction subsequently proven accurate. Mr. Hubbard accepted the proffered copy from Mr. Stanley. The BOD meeting continued for approximately ninety minutes. Then, following a short break in the meeting, open session resumed, Mr. Stanley presented the letter, and copies were distributed to the BOD.

The NWT commander then emphatically expressed his disagreement with the content of the letter and with the manner of its presentation. Personal antipathies began to emerge in the discussion. As a result of this brief and acrimonious debate, the BOD recognized that the topic was not appropriate for open session, discussion of the letter ended and the BOD proceeded to other agenda items. At no time during discussion of the letter did the Commander, Mr. Hubbard, Mr. Stanley, or any other member of BOD request that the meeting revert to executive session. The letter was not discussed further during the remainder of the August BOD meeting.

Several days thereafter, Mr. Hubbard made demand on behalf of NWT that disciplinary action be taken against Mr. Stanley in connection with the incident and subsequently Mr. Hubbard resigned from three N-SSA committees on which he had served. The Judges Advocate were directed by Commander McMahon to conduct an investigation into the controversy and to submit a report and recommendations to BOD at its January 2010 meeting. The Judges Advocates requested that BOD members refrain from comment on the matter during the conduct of the investigation and advised that due to the nature of the controversy, specific references to the incident should be excluded from drafts of the meeting's minutes. We believe that later events are well known to the BOD and need not be recapitulated here.

The letter in question was not created in a vacuum. In examining the background, we note that differences of opinion concerning matters of policy occasionally arise within the N-SSA, as in any organization. Topics of internal disagreement vary, they involve various groups of members, and they typically wax and wane over time in accord with circumstance.

Intra-organizational disagreements relevant here coalesced in connection with the land purchase proposed and undertaken by the N-SSA in 2007; the purchase had been supported by some units and opposed by others. After the purchase's consummation, however, disagreement (at first related to, but later not necessarily limited to, the purchase itself) continued, and became the subject of a series of postings on the N-SSA chatboard. Over time the antagonisms apparent in some disagreements increased; they sometimes became increasingly personalized, with animosities and personal hostilities crystallizing among and between various members and certain regional and national officers. Routine actions by moderators maintaining the N-SSA website and business conducted by the Executive Secretary were questioned as to motive or simply criticized. Some of the then most recent postings had involved members of the 1st South Carolina and other units in the NWT. It was against this background that the letter was conceived, drafted, and introduced.

FINDINGS

Having completed their investigation, the Judges Advocate find as follows:

First: We find that the letter should have been introduced in executive session, because it contained negative comments about specifically identified persons and entities. We further find that:

(a) National Commander McMahon was acting as the BOD meeting's presiding officer. He is therefore responsible for the letter's erroneous introduction into an open session and is also responsible for failing to adequately determine the actual content of the letter prior to permitting its introduction in open session.

(b) Ms. Willauer, as the primary author, is responsible for the factual errors and tone of the letter.

(c) Mr. Stanley is responsible for failing to personally verify the factual accuracy of the contents of the letter, which he himself had signed, and which he caused to be placed before the BOD in open session.

(d) Mr. Stanley and Mr. Hubbard are responsible individually for failing to determine the problematic content of the letter before it was introduced and distributed to the BOD. Each possessed a copy of the letter beforehand and either could have acted to prevent its introduction and distribution in open session.

(e) All BOD members present, as well as the Judges Advocate, share common responsibility for failure, once the letter had been distributed and the open session discussion begun, to promptly recognize the personalized nature of the letter and promptly act to move the letter or the meeting into executive session.

(f) After a heated debate on the letter and its content, further discussion was halted upon general recognition by the BOD that the subject was inappropriate for open session. Notwithstanding this consensus regarding the sensitivity of the contents, two BOD members effected wide publication of the letter after the meeting. Mr. Hubbard disseminated it to units of NWT, and Ms. Myers

disseminated it to units of the Allegheny Region, whose membership had no direct interest whatever in the letter or its content. The letter was then further circulated via some of its recipients throughout the entire N-SSA. It was this widespread publication that spread the controversy throughout the organization, spawning an interminable cavalcade of chatboard posts that were frequently inappropriate and rarely constructive. Some appear to be calculated to inflame, some actively promoted divisiveness or partisan "spin", and almost all were put forward by persons unencumbered by any comprehensive knowledge of the facts of the situation.

Second: We find that Mr. Norman Gibson was wrongly named in the letter. The allegations made in it concerning him are without foundation.

Third: We find no reasonable grounds for the allegations made in the letter concerning the 1st South Carolina and the Northwest Territory. During this investigation we reviewed a great number of chatboard postings, and found that a number of them could reasonably be deemed inappropriate, objectionable, or offensive. However, members of multiple units and regions have made postings of this nature; we therefore find that the letter's singling out of the 1st South Carolina and the NWT for particular censure was unjustified and unfair.

Fourth: We find that the letter was principally drafted by, and at the original suggestion of, the Executive Secretary. We further find that Mr. Stanley, in all respects relevant to introduction of the letter, was acting as N-SSA Bulletin Board Moderator, in the perceived interest of other moderators who were reportedly being hectored or harassed; he was at no relevant time acting as a regional commander. We therefore find that N-SSA General Order 2007.1 has no application in this matter.

RECOMMENDATIONS

First: Any matter coming before the BOD that offers criticism of, or purports to assign culpability to, named individuals, units, or regions should be presented only in an executive session. The National Commander as the presiding officer is ultimately responsible for ensuring this, but this responsibility attaches likewise to each and every member of the BOD as well as committee or staff officers filing reports.

Second: After reviewing a great number of postings to the N-SSA chatboard, we conclude that its continued operation does the N-SSA far more harm, both immediate and potential, than any benefit it could possibly provide. We recommend that it be immediately discontinued, both the general postings and members only postings.

Soon after the chatboard function was inaugurated, the posting of objectionable and inappropriate material caused difficulties. The moderated "member's only" section attempted to resolve the problem, but this effort has clearly failed. The chatboard is usually utilized by only a small percentage of the membership and, like all similar boards on the Internet, is liable to conversion by a small minority of users into a platform for rhetoric, rants, insults, and distortions, all appearing beneath the N-SSA logo and thus, by implication, with N-SSA sanction. It drains organizational resources, requiring ever-higher levels of scrutiny by monitors who inevitably become subjects of controversy themselves. No matter how many monitors there may be, if the chatboard continues to operate this will only get worse.

There is no way to establish in advance by any rules, no matter how detailed, what constitutes offensive, inappropriate, or objectionable content because this determination is inherently subjective. Editorial decisions by moderators are certain to generate accusations of arbitrary application of the rules; this furthers dissention and will eventually lead to claims of liability

for the N-SSA if the chatboard continues to operate. This portion of the bulletin board should be immediately terminated. Members, units and regions are free to set chatrooms up independently, as some have already done; unlike the present situation, these boards create no potential liabilities or legal expenses for the N-SSA.

Limiting the N-SSA website to the dissemination of general information to the membership and public as well as providing some noncontroversial forums, such as the buy/sell section, should eliminate many of problems experienced and certainly eliminate a significant liability risk for the N-SSA.

Lars E. Anderson

Brian G. Appelt

At the January 30, 2010 N-SSA Board Meeting the Report was presented, it was thoroughly discussed in Executive Session and the Board took the following actions:

1. The Board approved and adopted the two recommendations contained in the Report.
2. The Board approved releasing the Report to the N-SSA membership.
3. The Board and Officers voted to extend their apologies to Mr. Norman Gibson, the 1st South Carolina and the Northwest Region for the manner in which the incident was handled at the August 1, 2009 Board of Directors meeting.

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