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July 6, 2005

Board of Directors
National Association of Judiciary Interpreters and Translators

Dear Sirs:

The following professional parliamentary opinion was written in response to an e-mail sent to members of the Board of NAJIT by Sandro Tomasi on May 18, 2005, dealing mainly with the procedures followed at the NAJIT Annual meeting held May 14, 2005 in Washington. I have been asked to respond to the various procedural issues that Mr. Tomasi raises. I should point out that I was present during the meeting in my capacity as a professional parliamentarian.

Mr. Tomasi's e-mail is reproduced below and numbers have been inserted before the paragraphs, in [brackets], for ease of reference.

In paragraph [1], it is not clear what Mr. Tomasi means by "in an open forum" or why that concerns him. The Commission made its report at the 2005 annual meeting as consequence of its establishment at the 2004 annual meeting. Quoting the 2004 minutes: "16. Motion 3: Member Sophia Leon moved to create a commission to review the concerns that had been raised at the meeting. Motion passed." This was a commission established by the general membership of NAJIT, so, naturally, it was called on to report to the general membership. Had either the Commission members, or any of the general members present anticipated that the report might contain matters which should not be made known to the general public, any member would have been free to move to go into Executive (Secret) Session at any time. There was no such motion made.

Paragraphs [2] & [3]: Pursuant to the motion establishing it, the Commission did indeed "review the concerns" as outlined in their extensive report. The Commission was not asked to investigate specific complaints or allegations about specific people. The conclusion of the Commission's Report was that there were no grounds for the complaints related to the "concerns" and no foundation for any allegations that it was apprised of. No formal charges were made or filed, thus nobody's "good name" was clouded.

Paragraph [4]: As noted previously, the members had the option of moving to go into Executive Session at the time the report was to be presented. This is not a procedure that the Board, or the presiding officer, can cause to happen unilaterally. It is a majority decision of the members. Indeed, Mr. Tomasi could have made the motion himself, had he felt the need at the time.

Paragraph [5]: This is, strictly speaking, not a parliamentary observation, but I presume that the Commission felt there was no need to trouble Mr. Orrantia for “his side” because they found nothing of substance involving him.

Also, the citation, paragraph [6], from *Robert’s Rules of Order Newly Revised (RONR)*, 10th Ed.(2000) is quoted and applied out of its appropriate context. It applies to the procedure that a formally established investigating committee with an explicit charge, or set of charges, should follow. The Commission clearly did not have such an investigative mandate.

Paragraph [8]: “The annual meeting was abruptly ended”. This is correct, but not relevant. The time allotted for the annual meeting had past and other scheduled activities were pressing. “Tomasi asked to continue” with comments. Mr. Tomasi had already spoken for his allotted five minutes. There seemed no indication that any large number of members wanted to hear any more from him. There were a small number, perhaps, who did, and any of them could have moved that Mr. Tomasi be granted additional time. No such motions were offered. And finally it is not clear what “preliminary signs from the members” Mr. Tomasi saw, but I saw many people start to get up and walk out – clearly agreeing, by their actions, that the meeting adjourn.

Paragraph [9]: Since the Commission was established with a specific purpose to accomplish, and did so by presenting its report at the 2005 convention, it no longer exists, much like a “special committee” as described in RONR. The Commission was established by the membership, and as noted in the paragraph [1] comments, its responsibility was to report back to the membership, as it did. Since the Commission no longer exists, the various complaints in this paragraph are essentially moot. Mr. Tomasi mentions the “fiduciary responsibility” of the board – it is my understanding that such responsibility pertains to the managing the associations finances; I do not see any relationship to “procedural grounds” and Article 12 of the NAJIT bylaws.

Paragraph [10]: Since the report has been given, and it “belongs” to the membership, the Board has no authority to “freeze” it, whatever Mr. Tomasi may mean by “freeze”. (It is not a term found in RONR.)

I presume that Mr. Tomasi is perfectly free to file a new Article 12 “complaint” and restart an investigative process. But his complaint(s) ought to be highly specific and not deal with “procedure” with respect to a now non-existent Commission. Article 12 allows the board to “act accordingly” in response to any “complaint” which gives the board substantial freedom to do what it deems to be correct at the time. If the board decides to do nothing (based on the information available to it), the complainant has no further avenue of appeal specified in the NAJIT bylaws.

In summary, it appears to me that Mr. Tomasi has gone off in a variety of different directions, none of which have taken him very far. The Commission no longer exists so his primary desire to have the Commission continue the “investigations” is simply not possible.

Sincerely,

/s/

John D. Stackpole

Copy of Original E-Mail from Sandro Tomasi, with paragraph numbers added in [brackets]

From: YODRO@aol.com

To: arainof@ucla.edu ; judith@kristycomm.com ;
jbonet@cox.net ; lois.m.feuerle@ojd.state.or.us ; ISAINTERP@aol.com

Cc: dorranti@jjay.cuny.edu ; zetterst@yahoo.com ; executivedirector@najit.org ;
rwdann@alum.mit.edu ; l_garciahein@insightbb.com ; jeck1@cox.net ; DonAndres20@aol.com

Sent: Wednesday, May 18, 2005 1:19 PM

Subject: NAJIT 26th Annual Meeting in Violation of Robert's Rules of Order

Dear Directors of the Board:

[1]

The actions you have allowed and taken continue to neglect, and in some cases, violate Robert's Rules of Order (RRO), pursuant to Article 13 of the NAJIT Bylaws. At the 26th Annual Meeting, you allowed the "Commission on Concerns Raised at the 2004 NAJIT Meeting" to announce its investigative report, which was carried out as one of the items of the meeting agenda, in an open forum.

[2]

The Commission's report that was read during the annual meeting revealed the names of members Dagoberto Orrantia, Sylvia Zetterstrand and Sandro Tomasi, and Executive Director Ann Macfarlane, in connection with an investigation it carried out. (There is no language in RRO on Executive Directors' rights under investigation, but I am carbon copying this e-mail to the ED so that, in all fairness, she may have an opportunity to defend her good name.) RRO, Chapter XX, Section 61, under "RIGHTS OF THE SOCIETY AND THE ACCUSED," states the following:

[3]

"Since a society has the right to prescribe and enforce its standards for membership, it has the right to investigate the character of its members as may be necessary to this enforcement. But neither the society nor any member has the right to make public any information obtained through such investigation; if it becomes common knowledge within the society, it should not be revealed to any nonmember." *** "A member has the right that allegations against his good name shall not be made except by charges brought on reasonable ground."

[4]

The chair of the Board of Directors did not ask nonmembers to leave the room during the 26th Annual Meeting and, therefore, the Commission made "public" the information obtained through its investigation. Furthermore, the members present at the meeting should have been advised not to make public any information obtained through such investigation since most of our members are not familiar with RRO. None of these steps were taken by the BOD and, therefore, the described actions, or inactions, constitute a violation of RRO, Chapter XX, Section 61.

[5]

During the 26th Annual Meeting, member Dagoberto Orrantia informed the chair of the BOD that he was never contacted by the Commission informing him that allegations were made about him nor to have an opportunity to express his side of the story. RRO, Chapter XX, Section 61, under "STEPS IN A FAIR DISCIPLINARY PROCESS," states the following:

[6]

"Information obtained in strict confidence may help the committee to form an opinion, but it should not be reported to the society or used in a trial -- except as may be possible without bringing out the confidential particulars. Before any action is taken, fairness generally demands that the committee or some of its members meet with the accused for frank discussion and to hear his side of the story."

[7]

Members Orrantia and Zetterstrand (if not notified already) should have been given an opportunity to discuss their side of the story with the Commission prior to making its investigative report at the annual meeting -- particularly in light of their positive contributions to the association.

[8]

The 26th Annual Meeting was abruptly ended by the chair of the BOD without a motion to adjourn while member Sandro Tomasi asked to continue during the question and comment section of the agenda. This is a violation of RRO, Chapter VII, Section 21, under "CASES WHERE THE ASSEMBLY CAN ADJOURN WITHOUT A MOTION," which states that if the assembly does not wish to adjourn a prescheduled meeting, the matter ought to be handled by setting aside the orders of the day by a two-thirds vote (voting is drawn from Section 18, as instructed from Section 21). No vote was held on whether or not to adjourn the prescheduled meeting after preliminary signs from the members reasonably demonstrated a wish not to adjourn and, therefore, this constitutes a violation of the mentioned section.

[9]

In light of the aforementioned violations of RRO and the fact that the Commission has no authority over the Board of Directors to interfere in an Article 12 action, I now address the BOD and ask you to continue in the previously filed action. On November 29, 2004, I sent an Article 12 complaint

to the Board of Directors complaining about the Commission's procedures. The BOD (or someone therein) then notified the Commission about this contact, and the Commission, in turn, prohibited me from contacting the BOD directly regarding the ongoing inquiry at the time. Particularly in light of the fact that I filed an Article 12 on procedural grounds, not substance, it seems as if the BOD has violated its fiduciary responsibility by informing someone outside of the BOD about the Article 12 complaint since it appears you had no intention of investigating the mentioned Article 12. Furthermore, the BOD obeyed the Commission's instruction not to respond to any communications regarding the inquiry sent from me directly to you. The Commission had no power within the NAJIT Bylaws or RRO to impose this instruction nor is there any language in the Bylaws and RRO that prevents the BOD from carrying out its fiduciary responsibility to respond to an Article 12 complaint.

[10]

Considering the aforementioned fiduciary neglect and violations, I hereby request the BOD to act on the following:

1. to freeze the Commission and its report until order has been restored in full compliance of the NAJIT Bylaws and Robert's Rules of Order,
2. to investigate, consider and rule on the Article 12 Sandro Tomasi sent on 11/29/2004,
3. once there is an Article 12 ruling on the previous item, to resume the investigation as determined by the BOD in compliance with the NAJIT Bylaws and Robert's Rules of Order,
4. to give all members, and the ED, an opportunity to communicate fully with the Commission in the investigation it is carrying out, and
5. to demand a refund from the so-called expert parliamentarian present at the 26th Annual Meeting.

Before I sign off, I would like to provide you with two quotes: one from the author and philosopher Voltaire and one from Henry M. Robert (author of RRO).

"I may not agree with what you say, but I will defend to the death your right to say it."

---Voltaire

"Where there is no law, but every man does what is right in his own eyes, there is the least of real liberty."

---Henry M. Robert

Sincerely yours,
Sandro Tomasi

cc Dagoberto Orrantia
Sylvia Zetterstrand
Ann Macfarlane, ED

Commission on Concerns:

Rosemary W. Dann
Laura Garcia Hein
Jeck-Jenard Navarrete
Fausto Sabatino