

29 March 2019

Mr. Greg Shatan [via email]

Subject: Enforcement of ICANN's Expected Standards of Behavior

Dear Mr. Shatan,

In our capacity as the 2018-2019 GNSO Council Leadership Team, on behalf of the Co-Chairs, we have followed carefully your engagement in the RPM PDP WG and your filing of a 3.4 appeal to the Co-Chairs. As you know, the GNSO Council is ultimately responsible for the management of GNSO Policy Development Processes (PDPs) and we have a clear obligation to ensure PDP Working Groups can conduct their work in a manner that is professional, efficient, timely, and consistent with ICANN's Expected Standards of Behavior.

On 9 March 2019, ICANN's General Counsel delivered written advice to the GNSO Council concerning ICANN's views on the enforceability of the Expected Standards of Behavior and the key role Chairs play in assessing behavior, determining whether violations occurred, and taking appropriate action. In that advice, ICANN clarified an escalation process where perceived or alleged violations can be addressed by Chairs, with a timely appeal mechanism via the ICANN Ombuds office.

On 9 March 2019, ICANN's General Counsel delivered a letter to counsel for Mr. Kirikos citing Mr. Kirikos' violations of the Expected Standards of Behavior "in multiple and significant ways." That letter also indicated your own statements in this matter "could potentially be considered violations of the Expected Standards of Behavior as well."

While no formal complaint was brought against you, and the General Counsel did not find prima facie violations by you of the Expected Standards of Behavior, the GNSO Council Leadership Team has determined that our best course of action at this time is to require affirmative acknowledgment, acceptance of enforceability, and full compliance with the Expected Standards of Behavior moving forward. As such, the GNSO Council Leadership Team requests that, within seven days of receipt of this letter, you deliver to us in writing:

1. Acknowledgement and acceptance of ICANN's Expected Standards of Behavior;
2. Agreement that the Expected Standards of Behavior are enforceable;
3. Acceptance that violations of the Expected Standards of Behavior may result in removal from GNSO PDP processes.

If no such letter is received within seven days, the GNSO Council Leadership Team will temporarily remove you from participation in the RPM PDP WG. At that time, you may escalate the issue to the ICANN Ombuds office, as outlined in ICANN General Counsel's 9 March 2019 advice to the GNSO Council

Leadership. Please note that we are sending a separate communication to Mr. Kirikos regarding his role in this matter as flagged by ICANN's General Counsel.

In the interest of transparency, as you have previously received a private communication from the Co-Chairs in regard to your conduct in this Working Group, this letter, as well as your letter of response, if any, will be posted to the Working Group email list within ten days.

We encourage you to submit your response as outlined above to ensure and enable continued participation in the RPM PDP WG and other GNSO processes.

Sincerely,

Keith Drazek, GNSO Chair

Rafik Dammak, GNSO Council Vice Chair, Non-Contracted Party House

Pam Little, GNSO Council Vice Chair, Contracted Party House