

**Appeal of the ARRL Elections and Ethics Committee's Eligibility Determination
re: Carl R. Stevenson, WK3C**

August 30, 2005

From: Carl R. Stevenson, WK3C
4991 Shimerville Road
Emmaus, PA 18049-4955

To: The ARRL Executive Committee
The other Members of the ARRL Board of Directors
David Sumner, CEO and Secretary
Jim Haynie, President
Christopher Imlay, ARRL General Council

BY E-MAIL (with copies sent by Certified mail to Mr. Sumner and Mr. Imlay)

Dear Sirs:

Upon direction from Mr. Imlay as to how I to appeal the decision of the Elections and Ethics Committee, which essentially instructed me to, by no later than September 2, 2005,

"...submit any materials that you deem relevant to the Executive Committee of ARRL via the Secretary, David Sumner, addressed to ARRL Headquarters, 225 Main Street, Newington, CT 06111. You are welcome to use e-mail as well, addressed to dsumner@arrl.org. Because Mr. Sumner is out of the country at the present time, and for the next several weeks, I would recommend that you forward an additional copy of your submission to me at my office address below, or via e-mail, and I will see that it gets distributed to the Executive Committee on a timely basis."

I am hereby submitting this appeals package, with some comments and requests with respect to process.

Mr. Imlay further advised me that,

"The Executive Committee will consider these materials immediately thereafter."

and further that,

"Following the Executive Committee's review of the Elections and Ethics Committee eligibility determination, you will be informed of the Executive Committee's decision in writing."

While I am following the directions of Mr. Imlay in this matter, I have reviewed the "ARRL Articles of Association, By-Laws, Rules and Regulations" (As amended through July 17, 2004 and posted on the League's website at <http://www.arrl.org/aabl.html>) and I find NO such appeals procedure specified therein.

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The only appeals procedure I find in the above-referenced document is for the appeal of Section Manager eligibility disqualifications - Section 5(e) of the Bylaws section, which reads as follows:

“Should a dispute arise concerning the qualifications, campaign, balloting or ballot-counting pertaining to a Section Manager election, a summary of the dispute, together with all correspondence specifically relating thereto, shall be promptly forwarded to the Election Committee which shall render a decision thereon. Appeals to the Board from a decision of the Election Committee shall be processed as provided in disputes pertaining to elections of Directors and Vice Directors.”

This section of the Bylaws seems to clearly indicate that appeals by Section Manager candidates are “Appeals to the Board” rather than appeals to (only) the Executive Committee. Again, I find no specific process outlined for appeals with respect to Director or Vice Director candidates, but the language with respect to Section Managers points to an appeal to “the Board” and I believe, in the absence of a clear and well-specified process to the contrary, that appeals relating candidates for Director and Vice Director should likewise be “Appeals to the (entirety of) the Board.”

With no disrespect to the Executive Committee, I therefore believe that my appeal should be heard by the entire Board rather than just the Executive Committee.

I would further submit that it is only proper for the Members of the Elections and Ethics Committee to recuse themselves from the appeals panel, since it is their ruling that is under appeal.

Finally, with respect to process and with no intent to be disrespectful, I believe that the process that Mr. Imlay outlined to me is rather lacking in openness and due process. In virtually every other organization of comparable size that I have participated in, there has existed, a written and specific appeals process that, amongst other things, *affords the appellant the opportunity to address the appeals panel and answer any questions that they may have.*

I would welcome the opportunity to address the appeals panel and to answer any questions they might have in an effort to facilitate the most amicable and fairest possible resolution of this appeal.

Having commented on process, I will now begin to address the substantive issues surrounding my appeal of the Election and Ethics Committee's ruling that I am ineligible as a candidate for Atlantic Division Director.

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First, I clearly and honestly stated, both in a telephone conversation with Mr. Isely on August 23, 2005 and in a follow-up e-mail (quoted below), which I invited him to share with the other members of the Election and Ethics Committee that:

*"As far as my business goes, I *fully* realize that, as a member of the ARRL Board, I would have a fiduciary responsibility to the League and its membership.*

I have no contractual relationships with clients with any sort of agenda that would be counter to the interests of the League or ham radio in general, and part of my disclosure to, and contract with, any prospective new client would clearly point out my pre-existing responsibility to act in the best interest of the League and its membership. I am fully prepared to NOT take a client who would present a conflict of interest and have already done so in other areas unrelated to amateur radio.

Some of you may be aware that in the past, some things that were counter to League filings with the FCC went out over my signature when I had a similar fiduciary responsibility as the Chair of the IEEE 802.18 regulatory group, however, the Committee should recognize that, at that time, it was my professional responsibility and obligation to file, and advocate for, documents that were developed and approved by that constituency. However, since I no longer serve in that capacity, that potential conflict no longer exists.

In summary, I have no conflicts of interest, will not accept any clients that would create a conflict of interest, and would take my obligation to the League and its membership quite seriously if elected."

I have also offered, both verbally and in writing to execute, under penalty of perjury, a legally binding affidavit clearly stating that none of my existing contractual relationships with clients presents a conflict of interest with the interests of ARRL or amateur radio in general and that, if elected, I will not enter into a contract with a client that would result in a conflict of interest.

In short, NO conflict of interest exists, and, if elected, I would not PERMIT a conflict to occur (by refusing to take a client that would present a conflict).

To show that I am willing to "put my money where my mouth is" I am attaching to this appeals package, a notarized, legally-binding affidavit to that effect. (The notary seal may not show well, or at all, in electronic copies created by scanning the original, but will appear on the paper copies delivered to Mr. Sumner and Mr. Imlay by certified mail as follow-up documentation for the League's records.)

I note that such a document is routinely required of members of many, if not most, organizations' and businesses' boards, and I personally believe that ARRL should require this of ALL of its Directors, Vice Directors, and other officers of the corporation.

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With respect to the Elections and Ethics Committee's assertion that:

“The very nature of your business coupled with your client non-disclosure agreements could supercede (sic) your obligation to ARRL in case of a conflict.”

My response was, and is:

“As far as non-disclosure agreements with clients, such agreements are common in many types of business relationships ... however, if/when I exercise an NDA with a potential client it is to protect their confidential and proprietary information in the course of discussions BEFORE we enter into a contract for a specific task (and I virtually always know at least the general nature of the task before even entering into an NDA). All an NDA would do would be to prevent me from disclosing someone's proprietary information, revealed in the course of determining whether or not to do business together, to other parties, including the League - it does NOT bind me to take any action counter to the League's interests. Thus, I fail to see the validity of your assertion below that (my) "client non-disclosure agreements could supercede (sic) (my) your obligation to ARRL in case of a conflict." This presupposes a conflict where none exists and, as I stated to you in my earlier e-mail, I would NOT contract with a client that would present a conflict (for work that was counter to the interests of the League or amateur radio in general).”

The attempted assertion that an NDA might somehow “supercede (sic) my obligation to ARRL in case of a conflict” simply isn't valid, as I've pointed out above.

Given all of my assurances, both verbally and in writing, in advance of the Committee's decision and my offer on my own volition (which I'm following through with by submitting the attached affidavit to this appeals package), I believe that it's clear that the Committee has, for whatever reason, chosen to apply the language of Article 11 in the absolutely broadest, most proscriptive, most presumptive, and most prejudicial manner in my case.

With all due respect to the Committee, their response alleging “conflict of interest” unfortunately, seems, without a shred of supporting evidence, clearly predisposed to assume or insinuate a conflict where none exists. It also seems predisposed to assume or insinuate that a conflict would inherently be unavoidable - an assumption that I find unsupported by facts, particularly in light of my previously expressed willingness to execute, and current delivery of, a legally-binding document assuring the ARRL that no conflict exists and, if elected, I would refuse to contract with a client for work that would present a conflict.

Because it is apparent that the same “standard” has not been applied to others I believe that the Committee's determination of ineligibility represents an abuse of discretion by the Committee, whether intentionally so or not.

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If the same standard were applied uniformly to every candidate in the manner in which it has been applied to me, it would effectively preclude ANYONE who has ANY business or employment connection with the electronics/communications industry in any way.

This would, in my view, be detrimental to the interests of the ARRL because it would preclude virtually anyone with relevant expertise and experience that would be beneficial to the ARRL and its membership from serving on the Board.

In fact, the “2nd prong” of my appeal is based precisely on the fact that there is clear evidence that the “standard” has not been applied uniformly in the broadest, most proscriptive, most presumptive, and most prejudicial manner in which it has been applied to me.

Before I address the specifics of my claim above, asserting that the “standard” has not been applied uniformly to others, I must make it perfectly clear that I am not, and do not intend my observations to, in any way impugn(ing) the character or professional ethics of any of the individuals mentioned in the examples below. They are simply examples of which I am aware (there may or may not be more either presently or historically) of individuals who are, quite arguably, “similarly situated” with respect to their business or employment connections to the telecommunications industry, who I believe have obviously not been subjected to the same broad, proscriptive, presumptive, and prejudicial interpretation of the “standard” as has been applied in my case.

Furthermore, in the case of individuals who currently hold office, I am not in any way suggesting that they should be disqualified or removed from office, but, again, I am simply citing instances where it appears quite clear that the “standard” was not applied uniformly in the same manner that it has been applied in my case.

Case #1:

Mr. Dennis Bodson, W4PWF, currently serving as ARRL Roanoke Division Director, who is, like me an independent consultant in the telecommunications industry and has many ties to industry through both his business activities and his active participation in IEEE Standards activities, the IEEE Vehicular Technology Society, etc.

Dennis is a colleague of mine from IEEE Standards activities and my personal knowledge of him requires me to state categorically that his professional ethics, integrity, and ability to represent a constituency without conflicts are absolutely above question.

However, the fact that he currently serves on the ARRL Board, *coupled with the fact that his business situation is essentially identical to mine - consulting in the telecommunications industry*, clearly indicates to me that he was not subjected to the same application or interpretation of the “standard” as is the case with respect to my eligibility for office.

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Case #2:

Mr. Howard S. Huntington, W9KM, the current Vice Director from the Central Division (ironically Mr. Isely, the Chair of the Committee's own Vice Director) by his own statement on the Central Division website at http://www.central.arrl.org/vice_director.html "...has been employed in communications R&D and management over 30 years." While the website doesn't state who Mr. Huntington is employed by, it is my understanding that he works for Motorola. (In any event, the nature of his employment, and not necessarily who is actually his employer, seems to be the relevant fact.)

I don't know Mr. Huntington personally, and I certainly have no reason to in any way imply, and I am not implying, anything negative or accusatory with respect to his ethics and integrity (or that of his employer, whether it be Motorola or some other company).

The relevant fact is that Mr. Huntington is also arguably "similarly situated" with respect to business/employment connections to the telecommunications industry and the fact that he was not ruled ineligible for office indicates that he, too, was not subjected to the same application or interpretation of the "standard" as is the case with respect to the Committee's ruling on my eligibility for office.

I note that, per the article at <http://www.arrl.org/news/stories/2005/08/29/1/?nc=1>, a "Motorola Powerline LV" (BPL) system has been installed at League Headquarters under a cooperative testing arrangement between Motorola and the League.

First let me state categorically and unequivocally that I think this is a wonderful and totally appropriate development, as it indicates that at least one vendor of BPL systems is actively addressing the interference issues and it is important for the League to work with such parties cooperatively to resolve the interference issues satisfactorily.

Second, let me also state categorically that I have no personal knowledge one way or the other as to whether or not Mr. Huntington may have had any hand in this development, but if he did, I commend him for whatever he may have done to facilitate such cooperative testing (whether he is, in fact, employed by Motorola or not), as it's clearly in the best interests of the League and amateur radio in general to work with manufacturers who are willing to actively address and maximally resolve BPL interference issues.

However, strictly playing "devil's advocate" – I am forced to wonder what would be the Committee's determination, were the same broad, proscriptive, presumptive, and prejudicial interpretation of the "standard" of Article 11 to be applied to Mr. Huntington at the present moment as has been applied in my case. If Mr. Huntington is, indeed, employed by Motorola, would the Committee presume that a conflict of interest existed or was inherently unavoidable as it has done in my case? I would certainly hope not.

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Case #3:

Mr. H Hans Brakob, K0HB, former Vice Director from the Dakota Division, has told me directly that during his tenure in office he was employed by ADC Telecommunications. ADC Telecommunications is a company that, amongst other products, manufactures IEEE 802.11 "Wi-Fi" equipment aimed at large, TELCO and other carrier deployments of "Wi-Fi Hotspots" (see <https://www6.adc.com/ecom/hier.html?NODE=OND82928>).

Those specific business interests of ADC are certainly arguably in conflict with the interests of the ARRL and amateur radio, in light of the shared nature of portions of the 2.4 GHz and 5 GHz spectrum that "Wi-Fi" systems employ.

I know Mr. Brakob well enough to have no doubts about his integrity and ethics, and I don't know the exact nature of his employment with ADC at the time of his tenure in office. However, based upon the Committee's presumption of non-existent "conflicts of interest" on my part and the presumption that a conflict on my part would be inherently unavoidable, I cannot help but believe that, at the time of Mr. Brakob's candidacy, he also was not subjected to the same broad, proscriptive, presumptive, and prejudicial interpretation of the "standard" as has been applied in my case.

Summary

Due to the facts outlined above, I believe that the ARRL Elections and Ethics Committee has, *no matter how unintentionally it may have been*, exercised an abuse of discretion in issuing a determination that I am ineligible to run for the office of ARRL Atlantic Division Director.

I have also executed, under penalty of perjury, a legally binding affidavit clearly stating that none of my existing contractual relationships with clients presents a conflict of interest with the interests of ARRL or amateur radio in general and that, if elected, I would not enter into a contract with a client that would result in a conflict of interest, and I have delivered that document as an attachment hereto.

I respectfully ask that the entire Board, rather than just the Executive Committee, serve as the appeals panel, with the exception of the three members of the current Election and Ethics Committee, who should recuse themselves from the appeals panel because of the fact that it is their ruling that is under appeal.

In the interest of true "due process," I also respectfully request the opportunity to address the appeals panel and to answer any questions that the members of the panel may wish to pose to me prior to their rendering a determination on my appeal. (This can, of course, occur via a teleconference – it need not require a face to face meeting of the appeals panel.)

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Finally, I request that the appeals panel overturn the ruling of ineligibility rendered by the Committee, order that my name be placed on the ballot for ARRL Atlantic Division Director in the upcoming election, and allow me a fair and equal opportunity to pursue an opportunity to serve the League should the electorate see fit to elect me.

With the election rapidly approaching, I am relying on Mr. Imlay's assurances that this appeal will be acted on in the most prompt and expeditious manner possible.

In closing, I again state my desire for an opportunity to address and answer questions from the appeals panel and I hope that I will be afforded that level of due process.

Sincerely,

A handwritten signature in blue ink that reads "Carl R. Stevenson". The signature is fluid and cursive, with the first name "Carl" being the most prominent.

Carl R. Stevenson – WK3C
wk3c@wk3c.com
610-841-6180 (mobile)

ATTACHMENT – Affidavit of no conflict of interest

**Appeal of the ARRL Elections and Ethics Committee's Eligibility Determination
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Affidavit

August 30, 2005

To: The American Radio Relay League, Incorporated ("ARRL")
c/o : Mr. David Sumner, CEO and Secretary,
Mr. Christopher Imlay, General Counsel, ARRL

I, Carl R. Stevenson, hereby affirmatively state and swear under penalty of perjury that I have no contractual relationships with clients of my consulting business, WK3C Wireless LLC, or in any other manner, that present a conflict with the interests of the ARRL, or amateur radio in general, to wit:

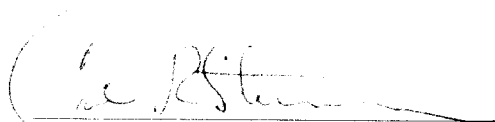
1. I have four clients currently under contract, all of which are sharing the cost of sponsoring me for the specific and narrowly-defined task of serving as the Chair of the IEEE 802.22 Working Group on Wireless Regional Networks.
2. The referenced Working Group is tasked with developing a standard for wireless regional area networks using geographically unused frequencies *allocated to the Television Broadcast Service*, and is constrained to *only* spectrum allocated to the Television Broadcast Service by the scope of its approved "PAR" (Project Authorization Request).
3. Thus, my existing client relationships and the task for which I am contracted have absolutely nothing to do with amateur radio *or* amateur bands and present no conflict of interest to the interests of ARRL or amateur radio in general.

I further affirmatively state and swear under penalty of perjury that, if elected to the office of Atlantic Division Director, I will not undertake any task, project, or work for any client that would involve amateur radio, amateur radio bands, or in any other way present a conflict with a Director's fiduciary responsibility to ARRL's interests, or could, by any reasonable interpretation, allow me to advance my own financial interests or those of my company, through the shaping of the affairs of the ARRL by the Board or by improper exploitation of the office.

Signed August 30, 2005 at Emmaus, Lehigh County, Pennsylvania

Sworn to and Subscribed Before Me

This 30 Day of Aug, 2005

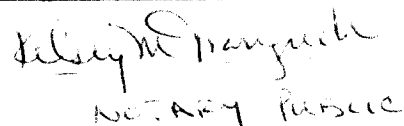


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COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

KELSEY M. TRANGUCH, Notary Public
Upper Milford Twp., Lehigh County
My Commission Expires Sept. 17, 2008



NOTARY PUBLIC