

June 28, 2012

VIA ELECTRONIC MAIL

Mr. Giampaolo Pioli, President
United Nations Correspondents Association
Quotidiano Nazionale
United Nations Building, Room L-223
New York, New York 10017

Re: Matthew R. Lee, Esq.

Dear Mr. Pioli:

This Firm, and particularly its *pro bono* John J. Gibbons Fellowship in Public Interest and Constitutional Law, has been contacted about potentially taking on the representation of Matthew R. Lee in connection with the potential action of the United Nations Correspondents Association (hereinafter, "UNCA") against Mr. Lee under Article 6 of the UNCA Constitution. It is our understanding that the appointment of a five (5) member Board of Examination was approved by the Executive Committee on or about May 29, 2012 to investigate "accusations of harassment and unprofessional and unethical behavior against Matthew Lee." So that we may determine next steps, I write to inquire as to whether that Board of Examination has in fact been appointed and thus whether the ten day period set forth in Article 6, Paragraph (1)(b) has begun to run.

I also write to inquire as to the specific charges against Mr. Lee. Obviously, the phrase "accusations of harassment and unprofessional and unethical conduct" is insufficiently specific to provide Mr. Lee with the notice and opportunity to be heard that is necessary for him to respond, and which is required of non-profit organizations, like UNCA, incorporated under New York law. That is, as I am sure you are aware, the New York Not-For-Profit Corporation Law requires that the requisites of due process be met. *See Anderson v. Bd. of Dirs. of the Powelton Club*, 702 N.Y.S.2d 762, 764 (N.Y. Sup. Ct. 1999). Thus, "[t]he right to be advised on the charges, receive notice of the hearing, and be given an opportunity to appear and be heard are fundamental[.]" Accordingly, any "dismissal, accomplished without notice of any kind or the right of confrontation, is offensive and contrary to our fundamental processes of democratic and legal procedure, fair play and the spirit of the law." *Brevetti v. Tzougros*, 247 N.Y.S.2d 295, 296 (N.Y. Sup. Ct. 1964). Thus, were the Constitution of UNCA interpreted to permit expulsion of a member without notice of the charges, it would be deemed invalid; likewise, any expulsion of a member without notice or an opportunity to be heard would be illegal even if the by-laws contain no express provision for a hearing. *See Ellis v. Broder*, 812 N.Y.S.2d 851, 853 (N.Y. Sup. Ct.

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2006) (“It ‘is the general rule that, before an officer may be amoved, specific charges must be served, adequate notice must be given, and full opportunity of meeting the accusations must be afforded[.]’” *See also id.* at 854 (“In order for the bylaws to meet the due process standard, they should provide for adequate notice of charges prior to a hearing on those charges, a hearing at which the charges are presented in detail with supporting documentation and at which the director whose removal is sought has an opportunity for rebuttal, including the presentation of witnesses and cross-examination of witnesses. The director should also have the opportunity to obtain counsel.” (citation omitted)); *Lane v. Sierra Club*, 706 N.Y.S.2d 577, 581 (N.Y. Sup. Ct. 2000) (“Where membership rights are abrogated in violation of proper procedure, . . . New York courts have held a by-law[’s] silence concerning notice and a right to a hearing does not deprive a member of such rights.”); *Briggs v. Technocracy, Inc.*, 85 N.Y.S.2d 735, 736-37 (N.Y. Sup. Ct. 1948) (“The petitioner’s expulsion as a member of the respondent, a membership corporation, was effected without prior notice to petitioner or a statement of charges made against her or an opportunity to be heard. The expulsion was therefore illegal, notwithstanding the fact that the by-laws made no express provision for a hearing upon charges. . . . [T]he by-laws of a membership corporation may make provision ‘not inconsistent with law . . . regulating the . . . suspension and expulsion of members’. Even if there were a by-law permitting expulsion without notice of charges and an opportunity to be heard, such a by-law would be invalid since it would be ‘inconsistent with law’.” (citations omitted)); NY CLS N-PCL § 601 n.27 (“A member cannot be expelled without fair, adequate and sufficient notice, and an opportunity of meeting the accusation.” (citing *People ex rel. Bartlett v. Med. Soc’y of Cnty. of Erie*, 32 N.Y. 187, 196 (N.Y. 1865))).

It appears to us that, notwithstanding his repeated inquiries, Mr. Lee has not been advised of the specific acts of which he has been accused. It is particularly critical in this case that those acts be spelled out so that Mr. Lee, and any reviewing body or Court, is able to assure that he does not face expulsion or impeachment based upon the exercise of his free speech rights -- that is, based upon the content of what he has written, about the United Nations, about other journalists, etc. As I understand it, that is a particular concern in this case, given the substance of Mr. Lee’s investigative and journalistic efforts, which have at times been critical or the U.N. and of other journalists.

But beyond the fact that, in the absence of notice of the accusations against him, Mr. Lee is thus deprived of his Due Process rights as a matter of the applicable law, such failure also deprives him of his rights under the UNCA Constitution, which entitles him to an “impartial investigation” by the Board of Examination (Article 6, Paragraph 1(b)). That is, neither he nor any reviewing Court can assess whether the members of the Board of Examination are impartial without knowing the specific allegations. This is because, if I understand correctly, the reference to “harassment,” in particular, involves actions allegedly taken with regard to other journalists. If that is so -- and please correct me if I am wrong -- then it is critical that the members of the

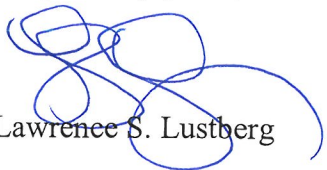
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Board not have been the alleged victims of this conduct, or otherwise unable to assess it based upon the evidence put before the Board, as opposed to other sources of information.

It may be that I misunderstand the process in which Mr. Lee finds himself involved, the notice that he has received and other aspects of this matter. So that I may ascertain whether and to what extent to take on Mr. Lee's representation either with regard to this process, or in any appeal or subsequent litigation that might potentially ensue -- representation to which he is legally entitled -- I would most respectfully request your response to this inquiry, at your earliest opportunity. If UNCA has counsel to whom I should direct this correspondence, please so advise me and I will provide this correspondence to him or her in your stead.

If you have any questions regarding this letter, please do not hesitate to contact me. Thank you for your kind attention to this matter.

Respectfully yours,



Lawrence S. Lustberg

LSL/leo

cc: Mr. Louis Charbonneau, First Vice President
Mr. Masood Haider, Second Vice President
Ms. Margaret Besheer, Treasurer
Ms. Flavia Krause Jackson
Mr. Tim Witcher
Mr. Zhenqiu Gu
Mr. William M. Reilly, Chair, Board of Examination
Mr. Tarek Fathi
Mr. Ali Barada
Matthew R. Lee, Esq.