

## **Article I. SUSPENSION AND EXPULSION REQUIREMENTS**

The ISOC articles of incorporation do not include any provision for expulsion or suspension.

The ISOC bylaws do not include any provision for expulsion or suspension.

Non-profit corporations have an inherent power to expel or suspend members, even in the absence of a specific provision in the charter or bylaws providing for such removal or suspension. However, there are some requirements:

### **Section 1.01 Good Faith Required; No Arbitrary or Capricious Expulsion**

Any such expulsion must be in good faith and not arbitrary or capricious.<sup>1</sup>

A member of a private association may not be expelled without due process; due process is comprised of: (1) absence of bad faith; (2) compliance with the constitution and bylaws of the association; and (3) natural justice. [Normali v. Cleveland Ass'n of Life Underwriters, 39 Ohio App. 2d 25, 68 Ohio Op. 2d 169, 315 N.E.2d 482 (8<sup>th</sup> Dist. Cuyahoga County 1974)]<sup>2</sup>

### **Section 1.02 Good Cause Required**

*Corpus Juris Secundum* puts it this way:

The power to expel can be exercised only for good cause, (Fuller v. Plainfield Academic School, 6 Conn. 532) that is, it has been said, for some offense that has an immediate relation to the duties of the party as a member, or for an offense of an infamous character, indictable at common law, and of which the party has been convicted. (Otto v. Journeymen Tailors' Protective & Benev. Union, 17 P. 217, 75 C. 308)<sup>3</sup>

A common statement of the rule is that when the charter of a corporation is silent on the subject of expulsion, or grants the power in general terms, there are but three legal causes of disfranchisement: offenses of an infamous character indictable at common law; offenses against the corporator's duty to the corporation as a member of it; and offenses compounded of the two.<sup>4</sup>

---

<sup>1</sup> 18A Am.Jur. Corporations § 778

<sup>2</sup> 6 Am.Jur. Associations and Clubs § 32

<sup>3</sup> 18 C.J.S. Corporations § 311 c.

<sup>4</sup> 18 C.J.S. Corporations § 311 c.

### **Section 1.03 Grounds**

In order to give an association a right to terminate a membership agreement, it must first be demonstrated that the member has violated a rule or policy of the association adopted by its members and that the rule or policy is not in violation of law or so unfair as to be contrary to public policy. [Benson Co-op. Creamery Ass'n v. First Dist. Ass'n, 284 Minn. 335, 170 N.W.2d 425 (1969)]<sup>5</sup>

### **Section 1.04 Whole Body of Members Required**

[...] If there is no special provision on the subject in the charter, the power of removal of a member for cause is in the whole body, and not in the board of managers or other officers. [State ex rel. Boldt v. St. Cloud Milk Producers' Ass'n, 273 N.W. 603, 200 Minn. 1] <sup>6</sup>

Ordinarily, the power of expulsion of members of a corporation is in the entire membership. [State ex rel. Boldt v. St. Cloud Milk Producers' Ass'n, 273 N.W. 603, 200 Minn. 1; Gottlieb v. Economy Stores, Inc 199 Va. 848, 102 S.E.2d 345 (1958)] The power of expulsion may be delegated to a board or committee under the corporate charter, articles of incorporation, or bylaws, [State ex rel. Boldt v. St. Cloud Milk Producers' Ass'n, 273 N.W. 603, 200 Minn. 1] [...] <sup>7</sup>

### **Section 1.05 Notice, Fair Hearing, Impartial Tribunal**

A member of a nonstock or membership corporation whose expulsion is sought is entitled to due notice of the hearing and charges against him or her<sup>8</sup>

While strict adherence to judicial standards of due process would be arduous and might seriously impair the disciplinary proceedings of voluntary associations, a person who is subjected to such disciplinary actions should be accorded a hearing before a fair and impartial tribunal; to hold otherwise would be a denial of essential rights<sup>9</sup>

---

<sup>5</sup> 6 Am.Jur. Associations and Clubs § 32

<sup>6</sup> 18 C.J.S. *Corporations* § 311 c.

<sup>7</sup> Am.Jur.2d, *Corporations* § 782 (2004)

<sup>8</sup> Am.Jur.2d, *Corporations* § 783 (2004)

<sup>9</sup> Am.Jur.2d, *Corporations* § 784 (2004)

## Section 1.06 Personal Interest of Trier

The directors of a voluntary nonstock or nonprofit corporation are not deprived of jurisdiction to try a member for offenses against the rules of the corporation merely because the charges are preferred by one of the directors. [Gottlieb v. Economy Stores, Inc., 199 Va. 848, 102 S.E.2d 345 (1958)]

In *Gottlieb v. Economy Stores, Inc.*, the director did not have a personal interest in the transaction, and acted in good faith. Personal interest changes the situation:

While it is certain that personal interest does not disqualify one from making a complaint against a member, [Jackson v. South Omaha Live-Stock Exch., 68 N.W. 1051, 49 Neb. 687] it is not so clear that it does not disqualify him from sitting as one of the triers of the alleged offense. [Jackson v. South Omaha Live-Stock Exch., 68 N.W. 1051, 49 Neb. 687]<sup>10</sup>

Merely being the accuser does not disqualify a disinterested board member from casting a vote as trier. This is expediency to corporate governance. But personal and adverse interests alter the balance. Being both accuser and trier offers an *opportunity* for undue influence in corporate governance. Injustice occurs when, actuated by personal and/or adverse interests, managers improperly and in bad faith exploit the opportunity for undue influence. The notion of interested is contrary to the notion of fair and impartial. Participation by “interested” persons in a tribunal is contrary to the notion of a fair and impartial tribunal.

Several Authorities also deny the ability of one body to be prosecutor, judge, and jury of the offense,<sup>11</sup> particularly with Lawyers’ associations handling the discipline of their members. It seems reasonable to hold Lawyers to standards approaching judicial standards, while one expects that an association of grocers could not, without embarrassment, hold themselves to judicial standards. A reasonable conclusion seems to be that an association should be held to standards of due process that are reasonably within the capabilities of the association. In no case, however, is a personally interested or adversely interested person allowed to be the trier of an offense.

---

<sup>10</sup> 18 C.J.S. *Corporations* § 311

<sup>11</sup> Schlesinger, In re, 172 A.2d 835, 404 Pa. 584 (Pa., 1961); *Blenko v. Schmeltz*, 362 Pa. 365, 67 A.2d 99, 20 A.L.R.2d 523

## Article II. RELATIONS OF IETF, IESG, IAB TO ISOC

### Section 2.01 Incorporation and Agency

The question of agency is important to establish the duties that are required, and the degree to which performance is necessary. The relation of Agency is necessary to show that persons named herein have a duties including a duty of loyalty to the ISOC that when breached in a design to mislead another, may be considered **bad faith**<sup>12</sup>.

A mere employee of a corporation does not ordinarily occupy a position of trust or confidence [Herm v. Stafford, D.C.Ky., 466 F.Supp 439], unless he is also its agent.<sup>13</sup>

Looking to the Law of Agency we find a definition of Agency:

Agency is the fiduciary relation which results from the manifestation of consent by one person to another that the other shall act on his behalf and subject to his control, and the consent by the other so to act.<sup>14</sup>

The intent to create an agency relation is unnecessary and exists even if it is not called agency and even if the parties didn't intend the legal consequences of agency to follow.<sup>15</sup>

The relation depends on the required factual elements:

- (1) the manifestation by the principal that the agent shall act for him,
- (2) the agent's acceptance of the undertaking, and
- (3) the understanding of the parties that the principal is to be in control of the undertaking

### Section 2.02 Manifestation of Agency; Acceptance; Understanding

The ISOC describes itself as the organizational home of the IETF.<sup>16</sup> The ISOC describes how it came to be the organizational home of the IETF.<sup>17</sup> These documents manifest the ISOC's consent that the IETF act for it. The IETF is describes itself as an "activity of the

---

<sup>12</sup> BLACK'S LAW DICTIONARY 94 (Abridged Sixth Edition 1991)

<sup>13</sup> 19 C.J.S. *Corporations* § 476 --- Fiduciary Duty in General

<sup>14</sup> RESTATEMENT OF AGENCY 2D § 1

<sup>15</sup> RESTATEMENT OF AGENCY 2D § 1 Comment d.

<sup>16</sup> See "All About the Internet Society" available at <http://www.isoc.org/isoc/related>

<sup>17</sup> See IETF "All About the Internet Society" available at <http://www.isoc.org/isoc/related/ietf/>; also available at <http://www.isoc.org/internet/history/ietfhis.shtml>

ISOC”<sup>18</sup> These and similar statements and acts manifest consent to an Agency relationship for the ISOC. The IETF has the power to create property owned by the ISOC, in the form of Internet Standards called “Requests For Comments” (RFCs), and thereby affect the legal relations of the ISOC.

RFC 2026 § 6.5.3 *Questions of Applicable Procedure* states

Further recourse is available only in cases in which the procedures themselves (i.e., the procedures described in this document) are claimed to be inadequate or insufficient to the protection of the rights of all parties in a fair and open Internet Standards Process. Claims on this basis may be made to the Internet Society Board of Trustees. [...]

RFC 3160 § 1.2.1 states:

ISOC's oversight of the IETF is remarkably hands-off, so many IETF participants don't even know about it.

These statements manifest the understanding that the ISOC is to be in control of the undertaking.

### **Section 2.03 Agents and Employees of ISOC**

The ISOC is incorporated under Public Law 87-569, known as District of Columbia Nonprofit Corporation Act. So, there is provided in the Articles of Incorporation a Board of Directors, known as the Board of Trustees, Officers, and ultimately a general agent hired to manage the organization.

A general agent's authority is determined by the nature of the business of the corporation, and prima facie is coextensive with his employment. His power and authority depend on the same principles applied to the cases of agents for individuals.<sup>19</sup>

Whether the persons employed, either with payment or gratuitously, under the ISOC, IETF, IESG, and IAB are employees (“servants”) or independent contractors is irrelevant to the issues raised in this document. The duties asserted are required of all agents whether they are independent contractors or employees. However, they are characterized as employees with good reason.

---

<sup>18</sup> See RFC 2026 § 1

“The Internet Standards process is an activity of the Internet Society that is organized and managed on behalf of the Internet community by the Internet Architecture Board (IAB) and the Internet Engineering Steering Group (IESG).”

<sup>19</sup> 19 C.J.S. *Corporations* § 472 --- Agents

In this document it is asserted that the persons involved in these activities are employees because their jobs as individuals do not individually qualify them as independent contractors. The individuals are not independent business, but are employees of some entity or person.

None of IETF, IESG, or IAB are incorporated. Upon knowledge and belief, none are defective corporations; that is, to our knowledge, none have tried and failed to incorporate. The question of whether the IETF, IESG, and IAB are distinct entities that have an existence that is distinct and independent from the ISOC or whether they are part of the ISOC is indicated in the terms used for describing the relationship. The terms used by each in describing the relationship indicates that there is no independent existence. The IETF describes itself as an “activity of the Internet Society” and “the ISOC is the organizational home of the IETF”. The IAB and IESG exist to manage the IETF and advise the ISOC.<sup>20</sup> Note also that the Charters of the IESG and IAB (RFC 3710 and RFC 2850) are themselves copyrighted property of “The Internet Society”. None of IETF, IESG, or IAB serves any other principal, but provide services to the ISOC and create intellectual property for the ISOC. The ISOC also provides insurance:

At ISOC's request, the insurers of ISOC extended its Directors and Officers liability coverage to include coverage for the members of the IESG and IAB. Coverage is provided for the IESG Area Directors, and Working Group Chairs, as well as Chairs of the IAB, IRTF, IRSG, and Chairs of IRTF Working Groups.<sup>21</sup>

Assuming for sake of argument that the IETF, IESG, and IAB are independent entities, then it is still the case that employees of the IETF, IESG, or IAB are subservants or subagents<sup>22</sup> of a disclosed principal (the ISOC) with duties to the principal (the ISOC).<sup>23</sup>

The IAB board members, IESG board members, and WG Chairs are therefore agents of the ISOC because they have inherent agency powers through creating intellectual property owned by the ISOC, and because they have the power to bind the ISOC through decisions regarding this property, and through binding decisions concerning the conduct of standardization and related activities. The IAB and IESG board members are also employed with management responsibilities including oversight of IETF documents and the management of conduct and activities within the IETF. The Working Group Chairs are employed with management responsibilities including the oversight of documents within their Working Group and conduct of activities within their Working Group.

## **Section 2.04 Gratuitous Versus Paid Employment**

---

<sup>20</sup> See RFC 3710 *An IESG charter*; See RFC 2850

<sup>21</sup> See “All About the Internet Society”, “IETF and ISOC” Section 4, available at <http://www.isoc.org/isoc/related/ietf/>; See also RFC 2031 *IETF-ISOC relationship*

<sup>22</sup> Restatement of Agency 2d, § 5

<sup>23</sup> Restatement of Agency 2d, § 142

The ISOC provides insurance benefits to the IETF, IESG, and IAB personnel.<sup>24</sup> The ISOC also pays some travel costs, and provides resources to “IETF Restructuring.”<sup>25</sup>

### **Section 2.05 Apparent Authority and Scope of Employment**

The IAB and IESG board members have apparent authority to make binding decisions regarding conduct of IAB and IESG board members and WG Chairs, as well as apparent authority to make binding decisions regarding the IETF process, including the quality and integrity of ISOC documents known as drafts during production. The ISOC through the IESG and IAB, and through ownership of RFC 3683 and employment of the IAB and IESG board members, has created the appearance that the IESG and IAB have the authority and scope of employment to expel a member.

“Similarly, if the employer creates the appearance that an employee is acting within the scope of his employment or authority when he is not, the plaintiff who reasonably relies upon the appearance can rightly subject the employer to vicarious responsibility.” Dan B. Dobbs, *The Law of Torts*, § 338 (2000); See also Harold Gill Reuschlein and William A. Gregory, *The Law of Agency and Partnership* § 23 (2d ed. 1990)

However, there is no bylaw or article of incorporation of the ISOC that gives the power of expulsion or suspension to the IAB or IESG, or to RFC 3683. Therefore, while the ISOC has created an appearance, and is therefore vicariously liable for the conduct, there is no actual authority for expulsion or suspension of a member. See Article I.

## **Article III. LAW OF AGENCY: DUTIES OWED TO ISOC BY IAB AND IESG BOARD MEMBERS**

### **Section 3.01 The Restatement of the Law: Gratuitous Undertakings**

§ 378. Gratuitous Undertakings

One, who, by a gratuitous promise or other conduct which he should realize will cause another reasonably to rely upon

---

<sup>24</sup> See also *Internet Society Membership Brochure* available at <http://www.isoc.org/isoc/membership/orgwhyjoin/membership2.pdf>

“ISOC’s contributions also extend to the legal, insurance and public relations support we provide to the IETF. We are the IETF’s sole source of financial support apart from IETF meeting fees. Support from companies, whose products and services so clearly depend on the standards developed by the IETF, is essential.”

<sup>25</sup> See ISOC 2005 Budget, available at <http://www.isoc.org/isoc/fin/ISOC2005budget.pdf>

the performance of definite acts of service by him as the other's agent, causes the other to refrain from having such acts done by other available means is subject to a duty to use care to perform such service or, while other means are available, to give notice that he will not perform.

§ 378 Comment d. Duties. A gratuitous agent is subject to the same duty to give loyal service and to account as a paid agent. See Comment c on § 387. His duty of obedience is the same (see Comment d on § 383, and Comment c on § 385), except that he need not obey orders to continue to act as agent. He is subject to a duty of care, but the fact that his services are gratuitous is considered in determining the extent of his undertaking and the amount of care he should exercise. See Section 379(2).<sup>26</sup>

### **Section 3.02 Restatement of the Law: Duty to Give Information**

#### § 381. Duty to Give Information

Unless otherwise agreed, an agent is subject to a duty to use reasonable efforts to give his principal information which is relevant to affairs entrusted to him and which, as the agent has notice, the principal would desire to have and which can be communicated without violating a superior duty to a third person.

§ 381 Comment a. When duty is inferred. An agent may have a duty to act upon, or to communicate to his principal or to another agent, information which he has received, although not specifically instructed to do so. The duty exists if he has notice of facts which, in view of his relations with the principal, he should know may affect the desires of the principal as to his own conduct or the conduct of the principal or of another agent.

§ 381 Comment d. Where agent has adverse interests. If the agent has, or if he represents another who has, interests adverse to the principal as to matters within the scope of the agency, or if he is competing with the principal and using information acquired during his agency, he is under a duty to the principal to reveal such facts in accordance with the rules stated in Sections 389-392.<sup>27</sup>

### **Section 3.03 Restatement of Law: Duty to Obey**

#### § 385. Duty to Obey

---

<sup>26</sup> RESTATEMENT OF AGENCY 2D § 378

<sup>27</sup> RESTATEMENT OF AGENCY 2D § 381

Unless otherwise agreed, an agent is subject to a duty to obey all reasonable directions in regard to the manner of performing a service that he has contracted to perform. Unless he is privileged to protect his own or another's interests, an agent is subject to a duty not to act in matters entrusted to him on account of the principal contrary to the directions of the principal, even though the terms of the employment prescribe that such directions shall not be given.

§ 385 Comment c on Subsection (1). One who is under no duty to continue to serve, and hence can properly renounce his employment at any time, is subject to the rule stated in this Subsection until such renunciation.<sup>28</sup>

### **Section 3.04 IESG and IAB act as Management**

The IESG has a managerial power and duty over the IETF Activities and Processes<sup>29</sup>

The IAB has a managerial power and non-delegable duty of loyalty, obedience and care to the ISOC for oversight of the IESG.<sup>30</sup> The exemption of duties of loyalty and care to the IESG does not exempt the IAB from the duties it has to the ISOC.

## **Article IV. LAW OF AGENCY: DUTY OF LOYALTY; "CONFLICTS OF INTEREST"**

### **Section 4.01 The Restatement of the Law**

Excepts from The Restatement of Agency 2d:

§ 387. General Principal

Unless otherwise agreed, an agent is subject to a duty to his principal to act solely for the benefit of the principal in all matters connected with his agency.

§ 387. Comment b. Scope of duty. The agent's duty is not only to act solely for the benefit of the principal in matters entrusted to him (see §§ 388-392), but also to take no unfair advantage of his position in the use of information or other things acquired by him because of his position as agent or because of the opportunities which his position affords. See §§ 393-398. [...]

---

<sup>28</sup> RESTATEMENT OF AGENCY 2D § 385

<sup>29</sup> RFC 3710 Available at <http://www.ietf.org/rfc.html>, then enter the RFC number.

<sup>30</sup> RFC 2850 Available at <http://www.ietf.org/rfc.html>, then enter the RFC number.

§ 387 Comment c. Gratuitous agents. A gratuitous agent is subject to the rule stated in this Section as fully as is an agent who is paid for his services.

#### Acting adversely without principal's consent. Restatement of Agency 2d:

§ 389. Acting as Adverse Party without Principal's Consent

Unless otherwise agreed, an agent is subject to a duty not to deal with his principal as an adverse party in a transaction connected with his agency without the principal's knowledge.

§ 389 Comment c. Where no harm to principal. The rule stated in this Section is not based upon the existence of harm to the principal in the particular case. It exists to prevent a conflict of opposing interests in the minds of agents whose duty it is to act solely for the benefit of their principals. The rule applies, therefore, even though the transaction between the principal and the agent is beneficial to the principal. [...]

If it is agreed otherwise, an agent can act with adverse interests, but there are still restrictions.

There appears to be no reason to consider that anyone on the IAB or IESG has been given consent to act for or with conflicting interest or adverse interests. Without consent, the employees have a duty to their principal that bars them from acting for or with such conflicting or adverse interests.

Supposing for sake of argument that consent has been given to act as an Adverse Party or with conflicting interests, there are still requirements that must be met:

Restatement of Agency 2d § 390. Acting as Adverse Party with Principal's Consent. Comment a:

... Before dealing with the principal on his own account, however, an agent has a duty, not only to make no misstatements of fact, but also to disclose to the principal all relevant facts fully and completely. A fact is relevant if it is one which the agent should realize would be likely to affect the judgment of the principal in giving his consent to the agent to enter into the particular transaction on the specified terms. ...

Should consent have been given, the ISOC employees would still have a lawful duty to make no misstatements of fact, to disclose all facts fully and completely, and to act fairly. Such misstatements of fact have been made as detailed in the previous related Appeals by Anderson to the IAB and IESG and in this Appeal. In denying conflict of interest, the named IAB and IESG board members have not disclosed the facts fully and completely to the principal.

## Section 4.02 No Permission from ISOC to Act for Conflicting or Adverse Interests

RFC 2850<sup>31</sup> *Charter of the Internet Architecture Board (IAB)* defines the role and duties of the IAB.

RFC 2850 Section 1:

Members of the IAB shall owe no fiduciary duty of loyalty or care to IAB, IETF, IRTF or IESG.

This statement in the IAB Charter is disturbing, since there seems to be no proper reason to permit the Members of the IAB to act disloyally or carelessly toward the IAB, IETF, IRTF, or IESG. Further, the duty of care by a “master”/employer to a “servant”/employee is non-delegable. The “non-delegable” duties of a “master” doesn’t mean that someone else can’t be assigned to look after those duties, but that the master is still liable for failing to use care, and cannot disclaim negligence in duties to employees. However disturbing this statement is, the issues herein relate to the duties the IAB has with respect to its principal, the ISOC. The ISOC is omitted from the statement in RFC 2850. Therefore, the members of the IAB still owe fiduciary duties to the ISOC, and have no permission to act for or as adverse interests, or to act for or as conflicting interests.

RFC 3710, *An IESG charter* defines the role and duties of the IESG. IESG members owe a fiduciary duty to the ISOC. There is no permission for the IESG to act for or as adverse interests, or to act for or as conflicting interests.

## Section 4.03 Conflicting and Adverse Interests

**RIPE-NCC** operates and sells DNS Root Anycast Servers to ISPs. RIPE-NCC earns income from selling stateful DNS Anycast servers to ISPs, and benefits from ISOC’s promotion of stateful Anycast technology as stable. RIPE-NCC benefits from suppression of discussion of problems with stateful Anycast technology. RIPE-NCC also benefits from suppression of data that indicates instability with stateful Anycast technology.

**Internet Systems Corporation (ISC)** operates and sells DNS Root Anycast Servers to ISPs. ISC provides network services to SORBS. ISC earns income from selling stateful DNS Anycast servers to ISPs, and benefits from ISOC’s promotion of stateful Anycast technology as stable. ISC benefits from suppression of discussion of problems with stateful Anycast technology, ISC also benefits from suppression of data that indicates instability with stateful Anycast technology.

**Verisign** operates and sells DNS Root Anycast Servers to ISPs. Verisign earns income from selling stateful DNS Anycast servers to ISPs, and benefits from ISOC’s promotion of stateful Anycast technology as stable. Verisign benefits from suppression of discussion of problems with stateful Anycast technology. Verisign also benefits from suppression of

---

<sup>31</sup> RFC 2850 Available at <http://www.ietf.org/rfc.html>, then enter the RFC number.

data that indicates instability with stateful Anycast technology. Although Verisign engineers first reported the data demonstrating actual instability, they have not released any further data since October 2004.

**SORBS** provides anti-spam blacklist services and obtains fees from both clients of the service and from victims of the service. SORBS also asserts along with Alan Brown formerly of ORBS, that Anderson/Av8 Internet has stolen IP address space. SORBS benefits from defaming its critics. SORBS benefits from suppression of discussion that it makes defamatory false statements. SORBS benefits from suppression of discussion of alternatives to blacklists for spam control.

**Brandenburg Consulting / David Crocker** provides consulting services to companies engaged in email authentication services. Crocker has also founded a bulk email firm. Bulk email firms benefit from blacklists that block *other* bulk email firms. Crocker benefits from the good will of SORBS and other blacklists towards his bulk email operations. Such good will may be obtained by defaming critics of blacklists. Crocker benefits from selling consulting services that involve blacklists (sometimes euphemistically known as “trust” or “reputation” systems). Crocker benefits from suppression of discussion of alternatives to blacklists for spam control. Crocker has previously worked for the IETF.

Not particularly well documented in the Appeal of the PR-action, is that Crocker is a leading anti-spam activist, writing many articles on anti-spam topics such as blacklists, as well as trust and authentication approaches to controlling spam. In the Appeal of the PR-action Anderson has only drawn attention to impropriety of Crocker’s association with SORBS false anti-spam statements and its false, defamatory statements. But Anderson has also disputed the utility and efficacy of such systems, notions on which Crocker obtains financial benefits from consulting. On May 26<sup>th</sup>, 2003 Anderson outlined a proof that shows that this approach cannot solve the spam problems. Anderson’s reasoning is easy to follow, even without a background in Information Theory:

It is a known result of Information Theory that one cannot prove the non-existence of a covert channel in a communications system. It is easy to establish that email is a communications channel for information theory. It is also easy to establish that spam is an unwanted communication channel use, equivalent to a covert channel. It then follows that one can't stop spam since that would be the equivalent of proving that a covert channel couldn't exist, which is a contradiction of a known result.

This notion, and the notion (also in the May 26<sup>th</sup>, 2003 email) that possibly not all spam is sent by genuine commercial bulk emailers, may threaten interests of Crocker and others involved directly or indirectly in the blacklist approach and blacklist industry.

The disreputable nature of blacklists like SORBS and their associates, who have been repeatedly held liable for defamation, discredits the technical approach that Crocker and many other anti-spam activists have taken over years. Crocker’s anti-spam approach has

been the dominant approach during the years since spam was first noticed as a problem in 1994, but the program has been unsuccessful. Crocker's solution to that failure has been escalating impositions on ISPs and schemes for authentication, which are expensive to ISPs but lucrative for those in the blacklist business such as Crocker and SORBS. The IETF anti-spam forums are the proper forum for this technical discussion. Crocker and others obtain lucrative standards by silencing the alternatives. Crocker's personal influence in the ISOC and its IETF, IESG, and IAB activities after 30+ years must also be considered. .