

Congress of the United States

PRESS GALLERIES

WASHINGTON, DC 20510-7238

June 23, 2014

Thomas C. Goldstein
SCOTUSblog
5225 Wisconsin Avenue, NW, Suite 404A
Washington DC, 20015

Dear Mr. Goldstein:

Thank you for meeting with the Standing Committee of Correspondents on May 23 to discuss SCOTUSblog's application for congressional press credentials.

The committee finds that SCOTUSblog has not shown that it meets the requirements of Rule 4 of the standards for issuing a congressional press pass. Rule 4 states, in part:

"The applicant must reside in the Washington, D.C. area, and must not be engaged in any lobbying or paid advocacy, advertising, publicity or promotion work for any individual, political party, corporation, organization, or agency of the U.S. government, or in prosecuting any claim before Congress or any federal government department, and will not do so while a member of the Daily Press Galleries.

"Applicants' publications must be editorially independent of any institution, foundation or interest group that lobbies the federal government, or that is not principally a general news organization."

SCOTUSblog failed in three ways to convince the committee that it met this rule:

a) The rule says the publication must be editorially independent of any institution that lobbies the federal government. At the meeting and elsewhere, law-firm partner Thomas C. Goldstein said he controls the editorial direction of the blog and determines areas of coverage. At the same time, Mr. Goldstein advocates before the Supreme Court, which is a form of lobbying the federal government. Thus, SCOTUSblog fails the test of editorial independence from any institution that lobbies the federal government because it is instead editorially intertwined with a law partner and a firm that lobbies the federal government.

b) The rule says that the publication must be editorially independent of any institution that is not principally a general news organization. That means SCOTUSblog would need to be editorially independent of Mr. Goldstein and the firm, Goldstein & Russell, because

neither is principally a general news organization. As stated above, SCOTUSblog is not editorially independent of Mr. Goldstein or Goldstein & Russell.

c) For SCOTUSblog to be editorially independent of Mr. Goldstein and his law firm, it could not, under the rule, serve as a client-generating vehicle for either. But as recently as last year, Mr. Goldstein told the American Bar Association that SCOTUSblog indirectly accounted for 75 percent of the law firm's Supreme Court business. Mr. Goldstein also uses SCOTUSblog as a platform for publicity material about himself, making the blog part of his personal brand.

At the May 23 meeting, Mr. Goldstein said that SCOTUSblog's editorial policy of January 2014 is the firewall that keeps the blog editorially independent from the law practice. This policy, (posted here: <http://www.scotusblog.com/2014/01/policies-on-editorial-independence/> and here <http://www.scotusblog.com/2014/01/our-policies-on-editorial-independence/>) states that the blog will solicit non-staff reporters to cover cases argued by the firm, and that there will be separate financial accounts for the blog and the firm. Mr. Goldstein said at the meeting that the blog will disclose when the firm has been hired to work on a case covered by the blog in all but the rarest cases.

The committee finds that the SCOTUSblog editorial policy did not go far enough to achieve editorial independence from Mr. Goldstein and his law firm. For a firewall to satisfy the Standing Committee, it would separate the law practice from the publication to prevent the law practice – which is an active advocate before the Supreme Court – from influencing editorial content. Furthermore, at least two people work on both sides of the firewall. Mr. Goldstein, who earns his living at the law firm, controls the blog's editorial direction and has day-to-day story conversations with SCOTUSblog reporters. The firm manager of Goldstein & Russell also works as the deputy manager of SCOTUSblog. Three of the firm's four lawyers are listed on the SCOTUSblog masthead. Other contributors to the blog represent clients before the Supreme Court, and the blog covers their cases without noting their relationship to SCOTUSblog. The blog and the firm share office space and resources. Far from keeping the blog editorially independent of the law practice as the rules require, these policies appear to permit the law practice to blend in with the blog. That makes it hard to determine where one ends and the other begins.

For these reasons, we will not reconsider SCOTUSblog's application at this time. Having found that SCOTUSblog fails the fundamental test of editorial independence, the committee looked no further at other questions raised by this application. At the meeting, SCOTUSblog reporter Lyle Denniston urged us not to credential SCOTUSblog if the publication did not meet the Gallery rules, saying "if you were to give us a credential, and you did so only by bending your rules, your credential would not be worth having." In that spirit, we hope that he and you will understand our decision.

If SCOTUSblog were to take additional steps to separate itself from Goldstein & Russell and any other lawyer or law firm who is arguing before the Supreme Court, we would welcome a

new application. If you would like to discuss this further, please contact Laura Lytle, Director of the Senate Press Gallery.

Sincerely,



Siobhan Hughes, Wall Street Journal, Chairwoman
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