

Patricia Georgee

From: Darren Churchill [REDACTED]
Sent: Friday, 5 April 2013 4:50 PM
To: FAD; Roger Howe
Subject: A5 Item 2
Attachments: Re FW Re Dispute 1_2012.eml; Fwd Dispute 1_2012.eml; Fwd Re valid points.eml; Re Final Notice -- Matter of Dispute.eml

Patricia Georgee

From: Darren Churchill [redacted]
Sent: Friday, 25 January 2013 3:37 PM
To: Troy Anderson
Subject: Re: FW: Re: Dispute 1/2012

I think the point is that like most things in Queensland [redacted] decides and does them himself. I have a file of emails a foot thick to support this accusation.

On 25/01/2013 3:29 PM, Troy Anderson wrote:
No I haven't. I'm not sure how I am supposed to do that.

From: Darren Churchill [mailto:[redacted]]
Sent: Friday, 25 January 2013 3:27 PM
To: Troy Anderson
Cc: Roger Howe; Julia Melland
Subject: Re: FW: Re: Dispute 1/2012

Have you sought evidence that [redacted] was properly appointed and not just hand-picked by [redacted]?

On 25/01/2013 2:59 PM, Troy Anderson wrote:
Thank you for this material.

I won't be calling for any further submissions as this appears to really deal with my requests.

Frank and I anticipate forwarding you something within the next 24 hours.

Troy Anderson
National Disputes Convenor
Australian Democrats

[redacted]
ph: 02 9224 1503 / [redacted]

From: Darren Churchill [mailto:[redacted]]
Sent: Friday, 25 January 2013 2:50 PM
To: 'Troy Anderson'
Cc: Roger Howe; Julia Melland
Subject: RE: Re: Dispute 1/2012
Importance: High

Dear Troy,

The attached documents will explain the answers to your questions. **Please note the document "National v Factional (An History of the 201213 NE Schism)."** It is required in order to understand the composition of both the actual National Executive and the Factional Executive calling itself "National Executive" at each point in time. I will address all three questions because there is considerable overlap.

1) Your question to Roger: There has not been a properly constituted NE meeting since the collapsed meeting of 18th September, 2012. The meeting failed to call to order, ██████ usurped the chair and there was discussion, partially resembling a meeting, with an Agenda presented after ██████ usurped the chair - not tabled the requisite period of 7 days before (and certainly not the requisite 14 days for a motion to remove an officer). The invalid meeting with its invalid Agenda lost quorum before a vote could be taken on the attempted appointment of ██████ ██████ has falsified "minutes" to claim it was passed - but the attached Doc 1 tells a different story.

The Factional Executive (FE) has used invalid email motions rather than meetings to conduct its unlawful business since 20th September 2012.

The National Secretary and I decided that the next NE meeting should occur after the National President ballot. This would presumably give the new President a lawful authority (something the faction was refusing to acknowledge with me as Senior DNP). Officers of the party agreed (Doc 3). We had expected the ballot to conclude in November, rather than mid-December. NE is required to meet a minimum of four times a year. In the past there have been attempts (based on finances) to have NE meet only the minimum number of times. **National Executive will meet on 29th January , 2013**, now that the holiday season is over NE Members' lives have returned to relative normality.

2) Your question to Roger and Darren: Regardless of whether or not NE had the power to pass said motions (and it didn't) they were not validly passed. Nor were they validly conducted. The invalidity of what they were doing was pointed out at the time (Doc 5 and Doc 6). The invalidity of each of their email motions has been pointed out by either Roger Howe, Darren Churchill, David Collyer, Robin Davis or Max Baumann (Robin and Max being non-voting officers of NE).

1) The Standing Orders clearly state:

"40.1 Where a formal meeting cannot be practicably arranged, a motion considered by email will be valid as if considered at a meeting."

There was no request to convene a National Executive meeting. However, it was expected to be held on the first Tuesday in December (after the time we had expected the ballot to conclude). (NE meetings have normally been held the first Tuesday of the month since John McLarens term as National president in 2007/08.) Therefore, a formal meeting COULD be practicably arranged. It is rather curious, therefore that this questionable motions were allowed to proceed.

2) Also, *"40.2 Motions for consideration by email must have a mover and a seconder."*

The motion needs to be moved (at which point it becomes the property of the meeting) and a seconder sought. At which point if there is a seconder come forth, the motion can be debated. If not, it lapses (as with any other motion).

3) Thirdly, *"40.3 The process that must be followed is:*

(a) The full text of the proposed motion must be supplied to all Executive members."

4) There was no reason Josh Mitchell (Tasmania) and Paul Stevenson (Queensland) - for the September "motion" could not exercise their votes via email. Nor why Paul Stevenson could not exercise his vote for the October "motions." Proxies do not apply for email votes (except where the substantive vote-holder already holds another voting position on NE.

The National Standing Orders also clearly state;

7. Proxies

7.1 Division Executives have the power to appoint proxies for their representatives.

7.2 A proxy must be a financial member of the Party and may be a current voting member of the National Executive.

7.3 Subject to the following clauses, any voting member of the National Executive may carry any proxy.

7.4 A member may only carry one (1) proxy.

Subject to this section, a proxy must be a Party member eligible to be elected or appointed to the executive."

The Standing Orders state:

Votes conducted by email:

40.6 The process and votes must be recorded and sent to all executive members by the National Secretary.

40.7 The result of any vote conducted by email must be declared provisionally within 48 hours of the close of the poll.

40.8 The record must then be treated in the same fashion as, and form part of, the minutes of Executive.

and

National Secretary (job description);

(i) To conduct email ballots of NE members.

This was not done, either by Roger (who regarded them as invalid) or ██████ (who the faction claim is their Secretary). the motions were moved and seconded randomly and conducted by ██████ claiming to be the chair.

6) There is no allowance of time for a motion of rescission. With 24 hours from the declaration given for tabling of documents, it is virtually impossible to challenge (other than by appeal).

From the Standing Orders:

"21. Rescission

21.1 A motion of the Executive may not be rescinded unless at least seven (7) days prior written notice has been given of the proposal to rescind, except that during a meeting the Executive may rescind, by two-thirds (2/3) majority, a motion made at that meeting."

For all of the above reasons, the "so-called" motions are invalid.

Your question to John: The reason there are two votes is that, even if the "motion" had been validly considered by email (which it wasn't) the "motion" as originally put on 29th September (2nded 30th September) (Doc 7) failed, as it did not achieve an "absolute majority" by 10th October (see Standing Orders relating to email motions), with only five people voting. It therefore lapsed and failed.

Even Roger querying the "motion" (Doc 8) did not garner any reaction.

█████ turned around and put the "motion" again because it hadn't achieved the desired outcome. (Doc 9)

From the Standing Orders:

20. Recommittal

20.1 Any resolution, question or matter that has been determined at a meeting must not be reconsidered again during the course of that particular meeting.

20.2 Any resolution, question or matter determined at a previous meeting may be rescinded or overturned at a future meeting, provided that at least seven (7) days prior notice is given.

The failed/lapsed "motion" was unable to be recommitted and reconsidered in this way. There was no forshadowed motion. Therefore (in addition to the other reasons stated above) it was invalid and failed.

The current Standing Orders are attached.

I make the following urgent responses to ██████ diatribe:

Item 6: National Executive replaced the majority of face-to-face meetings with teleconferences in 2007 (due to declining finances). These were conducted through the Leader's office until June 2008 and have been conducted via other conferencing facilities since. The 2 hour time limit was also cost related. It was actually reduced to 1.5 hours when Aron Paul was President. The two hours came back in when Julia Melland succeeded Aron.

Josh Mitchell matter: I did not respond to ██████ threatening letter because I was not prepared to dignify it with a response. The so-called "Special Committee" was a Star Chamber of three of my adversaries, with no hope of me getting a favourable hearing on trumped-up charges, which had already been answered by the National Treasurer.

No power of disendorsement: Constitutional Clause 11.2.37 to which [REDACTED] refers, relates specifically to a State Division's pre-selection for a Casual Senate Vacancy and follows on from 11.2.35 and 11.2.36 which relate to the same - under the collective heading "Casual Senate vacancy." [REDACTED] response is that of a desperate and vindictive man, clutching at straws.

Re: all the other material in [REDACTED] diatribe: I will make a considered response in the 2nd half of next week. For now I have a National Executive meeting to prepare for that must take precedence. Suffice it to say I find it offensive and defamatory (especially the comparison with paedophiles). I may indeed seek legal counsel re: [REDACTED] defamation before responding.

Regards,
Darren

Darren Churchill
National President, Australian Democrats
[REDACTED]

On 17/01/2013 1:50 PM, Troy Anderson wrote:
Dear All

I have some questions for you arising from each of your various submissions.

Roger

In your submission dated 9 January 2013 you state, in part, that since the 18/9/12 meeting of the NE there has not been a properly constituted meeting. Apart from saying that Dr Pilling has wrongfully 'usurped the chair' is there anything else you rely upon to support your position?

Roger / Darren

John Davey clearly places considerable weight of the NE's vote on regarding the suspension of memberships and the appointment of Drew Simmons as National Ballots Administrator. Neither of your submissions address what appears to me to be one of the critical issues. Putting to one side the question of whether the NE had the power to pass those Motions, do you accept they were validly passed? If not, why not?

John

As noted above, you place considerable weight of the NE's vote on regarding the suspension of memberships and the appointment of Drew Simmons as National Ballots Administrator. It is unclear from the documents annexed to your submission when those motions were in fact passed as there appear to be several dates and at least two votes. When do you say they were passed and who voted on them?

I look forward to hearing from you in writing, copied into the other parties.

Troy Anderson
National Disputes Convenor
Australian Democrats
[REDACTED]

ph: 02 9224 1503 / [REDACTED]

Patricia Georgee

From: Roger Howe [REDACTED]
Sent: Thursday, 4 April 2013 5:48 PM
To: Roger Howe; Darren Churchill
Subject: Fwd: Dispute 1/2012

Another email that outlines the position from the National Secretary's position.

Roger

----- Forwarded message -----

From: Roger Howe [REDACTED]
Date: Fri, Jan 25, 2013 at 6:23 PM
Subject: Re: Dispute 1/2012
To: Troy Anderson [REDACTED]
Cc: Darren Churchill [REDACTED], John Davey <johnd@hermlegal.com.au>, Frank Jordan [REDACTED], Brian Dickson [REDACTED]

Troy,

The following responds to your queries:

The legitimate minutes of the National Executive meeting dated 18/9/12, were taken by me as in every other NE meeting I attended carrying out the National Secretary role in an acting capacity. I was appointed for 2 years from the second half of 2011 in an acting capacity by NE as no applicants had come forward when a call for positions was advertised. My appointment, my work and diligence was not questioned until curiously after the successful AEC re-registration in which Darren Churchill and I played key roles. After this time an imitation, potentially fraudulent and definitely defamatory document was produced in the likeness of a National Journal which portrayed a character assassination of me and portrayed me lacking integrity, diligence and then quoting that I had not served the party. All this without any evidence or opportunity to respond. This has been referred to the then National Disputes Convenor Brian Dixon. This document was produced by [REDACTED] whose term had expired as National Journal editor on 30 June 2012, using unapproved party resources, such as email lists and document templates. To my knowledge [REDACTED] has not returned this intellectual property back to the legitimate NE and the party.

[REDACTED] claims I have acted dishonestly and with incompetence, but nowhere has any evidence been provided to substantiate this claim. No decision nor investigation has been undergone in the appropriate manner, nor details of any accused incompetence or dishonesty to be addressed nor opportunity to address the detailed supposed accusations and allegations in the supposed suspension of my membership that emanated from the fractional group via phone discussion and potentially emails but not as any part of that last short NE meeting on the 18/9/12, refer to the minutes I took as the official secretary, of which you have the draft. When [REDACTED] amidst calling out, defamatory accusations etc and general lack of order usurped the chair, by his very actions and the failure of the meeting to come to order under the Chair - Darren Churchill to properly consider the procedural motion, the meeting was abandoned. Discussion ensued from that point, this discussion is documented in what [REDACTED] claims as minutes.

The notes, attached to [REDACTED] submission claiming to be minutes, emanating from a phone conference where the initial part was the NE meeting do not constitute the legitimate NE minutes taken by the National Secretary. The legitimate minutes of that NE meeting were taken by me as the National Secretary and are due

to be circulated shortly to the legitimate NE for acceptance as a true and accurate version of the minutes of that meeting via the legitimate NE communication email lists which are hosted on the Australian Democrats servers for privacy and security reasons. It is to be noted that the fractional executive host their so called nemotions email group on the foreign owned and controlled google network.

Whilst it has been practical to hold a meeting, there has been no subsequent meeting of NE as there has been no call from any party member for a meeting nor a call to meeting from the National Secretary role nor the national President's role, until now. Hence all those supposed decisions that are quoted by [REDACTED] are not valid NE decisions. [REDACTED] also suggests that while the role I occupy is the National Secretary role, it is not valid for me to sign off as the National Secretary. I often like to highlight that I hold the role in an acting position by putting the work "acting" somewhere near the role name, regardless to this I still hold the role and can sign off as National Secretary. [REDACTED] claims that decisions of the fractional executives have not been appealed is ironic as they are not valid NE decisions. However a number of appeals have been addressed to the then NDC Brian Dixon over the collective decisions and actions of this splinter group claiming to be the NE. The approach taken by this fractional splinter group to suspend Darren Churchill totally ignored, when the question was raised at an NE meeting the fact that the National Treasurer attested not only that the process enacted over Josh Mitchell's membership was a normal process but that it was carried out by the normal membership processing personnel. This was ignored because it was an inconvenient truth and if recognised then it would stop the fraction from sidelining someone of a different point of view to themselves. I agree with [REDACTED] comment that "I submit that Darren Churchill was indelible as a candidate", indelible indeed! The query about the validity of the passing of motions: not all valid NE members were included in the emails, some who claimed proxies were not recognised and documentation had certainly not been received by myself the National Secretary.

A variety of people have claimed proxies at various times including John Davey for WA, Jim Page for QLD, Paulene Hutton for Tas. It is unclear at this point if the Divisions were substantial enough to be recognised and/or followed the correct annual procedure to elect office bearers or followed the correct procedure to appoint proxies. Also I had called in the last 12 to 18 months for submission of each division and YADS constitution, my high level findings were that: I did not receive all divisional constitutions, some constitutions and/or practises used, did not comply with the national constitution eg TAS, QLD, YADS putting their National rights to a voting position in doubt. Items that will be further pursued by the legitimate National Executive.

Accusations by [REDACTED] of fraud (I will forward an email from [REDACTED] separately) are not helpful in attempting to resolve this matter and resume our progression to the Federal Elections. Also individual interpretations of the effectiveness or not, or the motivation, goals or methods of any officer or committee including the NE is also not the issue here, the members decide who holds office and the most recent National President ballot convincingly endorsed Darren Churchill into that office to represent the members and to convene and chair the National Executive. Alternatively the illegitimately self claimed chair of NE - [REDACTED] has been removed from NE representation for SA by the SA members. This to me is a clear indication of the satisfaction of the members for the work of the National President - Darren Churchill and the dissatisfaction of the SA members on their representation at National Executive by [REDACTED]

I would suggest if anyone has put this great party at risk in the last 6 months it is the fractional splinter group looking to take control, ditch some very impressive contributors and take the party who knows where. The members would not be impressed.

I hope I have addressed the issues raised and supplied you with the information and background you were seeking.

Regards,
Roger Howe

Patricia Georgee

From: Darren Churchill [REDACTED]
Sent: Thursday, 20 December 2012 5:42 PM
To: [REDACTED]
Subject: Fwd: Re: valid points
Importance: High

FYI

----- Original Message -----

Subject: Re: valid points
Date: Thu, 06 Dec 2012 00:05:19 +1100
From: Darren Churchill <darren.churchill@democrats.org.au>
Reply-To: darren.churchill@democrats.org.au
Organisation: Australian Democrats
To: Brian Dickson [REDACTED]
CC: Roger Howe [REDACTED]

Hi Brian (and Roger),

Brian - as discussed on Monday night.

1) The following excerpts from NE Minutes show your appointment by NE and the attempt to ballot the position. The fact that the position was not advertised by then NCO Jim page in the National Journal does not indicate a reversal of the desire of NE to ballot the position.

From the May 2010 NE Minutes:

4.0 Dispute Resolution

Motion

That NE establish an interim Disputes Resolution Committee comprising Darren Churchill, Julia Melland and Jim Page.

Moved: Jim Page

Seconded: Bruce Carnwell

Carried

From the June 2010 NE Minutes:

4.0 Dispute Resolution

Recommendation from Temporary Disputes Resolution Committee: of appointment of Interim National Disputes Convener and call for nominations for a Ballot to fill the position. (Darren/Julia)

Motion:

"That NE appoint Mr Brian Dickson as Acting Disputes Convener and call for nominations to ballot the position (with the desirable qualities for the position attached)."

Desirable qualities in a Disputes Resolution Convener (to go out with the ballot)

Reasonable length of membership of Australian Democrats

Have held a senior elected position

Have an understanding of Australian Democrats procedures and protocols and the Constitution and Standing Orders

Moved Darren Churchill

Seconded: Jim Page

For: Pearl Lim, Max Baumann, Darren Churchill, Julia Melland, Roger Howe, Jim Page, Brett Paterson, Greg Croke, Paul Stevenson, Fred Carter

CARRIED

From the July 2010 NE Minutes:

5.0 Disputes Resolution

Call for nominations for a Ballot to fill the position of national disputes

Resolution Convener (Darren/Julia)

Desirable qualities in a Disputes Resolution Convener (to go out with the call for nominations)

Reasonable length of membership of the Australian Democrats

Have held a senior elected position (preferably for some time)

Have an understanding of Australian Democrats procedures and protocols and the National Constitution and Standing Orders

From the September 2010 NE Minutes:

9.0.2 Call for nominations for a Ballot to fill the position of National Disputes Resolution Convener (Darren/Julia)

Desirable qualities in a Disputes Resolution Convener (to go out with the ballot)

Reasonable length of membership of Australian Democrats

Have held a senior elected position (preferably for some time)

Have an understanding of Australian Democrats procedures and protocols and the National Constitution and Standing Orders

9.0.3 Call for expressions of interest for unfilled office bearers and office holders to fill the vacant positions of National Communications Officer, National Journal Editor, National Secretary, National Treasurer, National Policy Coordinator, National Ballots Administrator and National Fundraising Officer. These should state the requirements of a suitable person and state the job descriptions as outlined in the Standing Orders. Referred to National Communications Committee for action.

2) The status of your membership was raised (by me) at the time. ie. that perhaps you should renew? It was not considered by NE to be a problem and we proceeded with the appointment.

3) You did not resign from the position. In fact, you considered the NCO Dispute (Kanck/Churchill v Page) in May/June 2011. And Jason Heeris was deputised to act on behalf of the then Secretary (ie. me)!!!

Regards,
Darren

Darren Churchill
Senior Deputy National President, Australian Democrats

On 3/12/2012 3:18 PM, Brian Dickson wrote:

Hi Darren and Roger,

I have received confirmation from Jason Heeris that he is no longer a member of the party. In his email he raised some very valid points regarding my role that I have not considered or and which the party need to consider. Please see an abridged extract of his comments:

You have not been balloted by the members for this position, or even appointed by a vote of the NE.
You are no longer a member of the party, which by my reading makes you ineligible for the job anyway.
You explicitly resigned from the role in 2010.(not sure about this point, don't recall explicitly resigning my role)

For this office not to seen as a political tool for one faction or another points 1 and 2 must be considered valid and I doubt any findings by me would hold any legal or moral weight whatsoever. Please consider this and get back to me.

Sincerely,

Brian Dickson MBA GAICD
Principal



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Phone (08) 9331 5509 Mobile [REDACTED] Web [Change Fundamentals](#)

Patricia Georgee

From: Darren Churchill [REDACTED]
Sent: Thursday, 3 January 2013 11:13 PM
To: Troy Anderson
Cc: Troy Anderson; Change Fundamentals
Subject: Re: Final Notice -- Matter of Dispute

Importance: High

Sorry. I do not recognise any of the faction's email motions to be valid. If I recognise one of them (ie. that to appoint) you, I must recognise them all (including the motions to suspend, expel, dis-endorse Roger, Julia, Sandra & Aussie, and me).

It places me in a bit of a bind. Doesn't it?

Look, I suggest you work with Brian and see what the two of you come up with. I had suggested to Brian a while ago putting together a committee (including you).

This whole business has been a five-month long process by [REDACTED] and co. to remove me: first as Senior DNP and interim chair of NE and now as National President. Do you not see that the whole thing is an attempt to remove me by any/all of bullying, harassment, dispute, overthrow of meetings, illegally suspending/expelling my colleagues, etc because [REDACTED] is bitter and twisted that his friend [REDACTED]

As I said before: "The dispute was against the process. There is only 24 hours after a ballot is declared to dispute the result and this was not done." even the dispute against the process was after the closing date for the ballot. Therefore I can only accept a ruling on process and work to ensure it is done better next time. I have been duly elected and my term will finish on 30 June 2013.

Regards,
 Darren

On 3/01/2013 9:48 PM, Troy Anderson wrote:
 I received these emails:

"Troy, the dispute was against the process. There is only 24 hours after a ballot is declared to dispute the result and this was not done. Regards, Darren Churchill, National President, Australian Democrats [REDACTED]

and

"As i explained to you in Sydney some weeks ago, the "appointment" of [REDACTED] was not valid as it excluded 3 voting members of NE and included others claiming questionable proxies. This was pointed out to the faction by DNP David Collyer. Roger is the Secretary and is recognised as such by the AEC."

neither of which I read as being a complaint against my appointment. Look it doesn't matter...are you in or out?

----- Original Message -----

From:

"Darren Churchill" [REDACTED]

To:

"Troy Anderson" [REDACTED]

Cc:

"Change Fundamentals" [REDACTED] "Troy Anderson" [REDACTED]
"darren.churchill@democrats.org.au" <darren.churchill@democrats.org.au>

Sent:

Thu, 3 Jan 2013 21:40:20 +1100

Subject:

Re: Final Notice -- Matter of Dispute

Hi Troy and Brian,

Troy - with respect, I did tell you in an email (sent with great difficulty from a spare phone on Christmas Eve) that none of the faction's email motions are valid. Nor was the vote to appoint you, which was conducted in secret (again invalidly via email) and excluded three voting members of NE - namely Roger Howe, Trevor Jenner and Darren Churchill.

As I told you in a meeting in Sydney, [REDACTED] is not the Secretary and therefore nominations sent to him for any position are invalid.

I will address this briefly in my response. But in the meantime, I am happy to answer any questions via telephone (as it is less time consuming than emails). I am perfectly happy for you to take notes of the conversation.

Regards,
Darren

Darren Churchill
National President, Australian Democrats
[REDACTED]

Sent from my iPhone

On 03/01/2013, at 21:15, "Troy Anderson" [REDACTED] wrote:

Hi Brian

Thanks for your email. No one has had the courtesy to write to me and tell me that my position as interim NDC has not been accepted by both 'factions'. I can only assume it has been regarded as illegitimate because it was ratified by a national executive that Darren Churchill and Roger Howe do not accept. If my alleged lack of legitimacy stems from my appointment by the NE, their complaint will lapse once the ballot for NDC comes to an end and either [REDACTED] or I am elected. If there are other issues, I am unaware of them.

I agree we should work together, although I understand some people have a problem with you

because of your non membership of the party - is there any chance you would consider rejoining so that is not an issue?

I should note that I agree that Darren is the legitimate president at the moment. On my reading of Clause 8 of the AD Constitution, it is business as usual until a dispute is resolved.

Troy Anderson

National Disputes Convenor (Interim)

Australian Democrats

[REDACTED]
ph: 02 9224 1503 / [REDACTED]

----- Original Message -----

From:

"Change Fundamentals" [REDACTED]

To:

"Troy Anderson" [REDACTED]

Cc:

<darren.churchill@democrats.org.au>

Sent:

Thu, 3 Jan 2013 13:29:42 +0800

Subject:

RE: Final Notice -- Matter of Dispute

Hi Troy,

Hope your Christmas was relaxing. I have had a dispute referred to me for resolution. When I asked the referrer why I was being treated as the national disputes resolution convenor I was told that I should ignore certain information and approached by non-legitimate sources. These include Mr [REDACTED] [REDACTED] As I alluded to you by phone late last year there appears to be two school in operation and in particular one group who recognised you as disputes convenor and one that recognises me, with both groups able to provide a rationale as to why either you or I are not legitimate. I have no ambition in this matter and believe that the only way forward is to join forces to give the position broad acceptance and attempt to solve this problem before the damage to the organisation is too great to rectify. I will proceed to evaluate the disputes at hand and would appreciate it if you could provide me with a response to my suggestion. I have copied Mr Churchill into this email as I believe him to be the legitimate National President of the party.

Regards,

Brian Dickson