

DECISION OF THE GOTHAM VOLLEYBALL GRIEVANCE COMMITTEE

DECEMBER 21, 2023 MEETING GRIEVANCE OF [REDACTED]

SUMMARY

The Grievance Committee received a grievance from former¹ Gotham member [REDACTED] (he/they) concerning the removal of multiple posts he placed on the Gotham Volleyball 😊 Facebook group and the subsequent decision to block him from participating in that group.

After reviewing the relevant facts and circumstances concerning these actions, the Committee has determined to grant the grievance in part and deny the grievance in part as set forth herein. The grievance is granted to the extent that the indefinite ban of [REDACTED] from the Gotham Volleyball 😊 Facebook Group is reduced to a ban from the date it was imposed to the date of this decision. The Committee, considering the circumstances regarding the removal of the posts, is requesting the Board create guidance and a process for future removals to address some of the issues raised by this Grievance. The Committee also provides other recommendations regarding the Gotham Volleyball 😊 Facebook group. The decision was agreed to by all members of the Grievance Committee, which includes Michael Castro (Division Play), Eric Eichenholtz (Division Play/Acting Grievance Officer²), Sonia Parada (Power), Hunter Schneider (Division Play) and Patrick So (Power), with partial dissent by Hunter Schneider noted below and in the appended dissenting opinion.

FACTUAL BACKGROUND

This grievance concerns the Gotham Volleyball 😊 Facebook group, originally created as an “unofficial” form for discussion on volleyball and non-volleyball related topics by Gotham members that is currently run and moderated by the League. By all accounts, the Facebook group is, for the most part, unmoderated and members are free to post whatever they choose. Gotham has not provided any sort of policies about the use of the group or processes for moderation. This is, primarily, the result of the rather unique history and evolution of the group and its relationship to Gotham.

Gotham originally created an official Facebook group more than 15 years ago. That "group" is what Facebook users currently experience as the Gotham Volleyball page. In the early 2010s, Facebook was converting groups set up by organizations such

¹ Article IX, Section 4 of the Bylaws limit those who can bring grievances to members of Gotham Volleyball, with exceptions to allow non-members and former members to grieve that do not explicitly apply here. The Grievance Committee nonetheless proceeds with this grievance given that it concerns a former member that is utilizing a forum administered by Gotham and because there was an understanding that a participant of Gotham Volleyball 😊 could utilize the grievance process as recourse to be heard on claims of wrongful moderation.

² The position of Grievance Officer is currently vacant. The Board of Directors has designated Division Play Grievance Committee Member Eric Eichenholtz to serve as acting Grievance Officer until the vacancy is filled.

I'm a former, long-time Gotham player and though it's been quite a while since I was last on the court, I do maintain interest in the league through friends, the newsletter and social media. It's with the latter in mind that I was prompted to write this.

Recently there have been a number of political posts on the Gotham Facebook group page related to the situation in the Middle East. I don't recall seeing political posts in the past, and it would seem to me such topics are beyond the league's mission. I took a quick look on the Gotham website for the league's social media policy but was not able to locate it. I understand that the league may from time to time permit some personal topics on its page - such as a roommate/housing search - but question whether it's the appropriate place for personal views on such highly charged topics unrelated to the league or its mission.

Can you steer me to the league's social media policy, and clarify whether these topics are consistent therewith?

There were was no specific policy or guidelines regarding the Gotham Volleyball 😊. Greg responded to the former member by writing:

Thanks for reaching out. While the Gotham Volleyball :-) Facebook Group is owned by Gotham Volleyball, it is meant to be a opportunity for anyone to post content making the community aware. We've rarely removed posts by others unless it does break a policy (example being people running for Captain that are not allowed to post).

The official official Gotham Volleyball page is restricted to specific people posting content.

That said and to your point, I've never seen a politically-based post in past memory, or if it has it hasn't been to the frequency posted consistently and by the same person. While it technically does not break the social media policy, I personally share the same concerns that you do on how much it's making a presence and not knowing what the objective/goal is for posting this way.

I'm going to get together with the rest of the exec team (President & Treasurer) and see what the right course of action could be here, but I'm happy to get more of your feedback to add to the conversation.

Ultimately, after Greg conferred with Gotham President Kyle Williams and Treasurer Andre Carneiro, the leadership team made the decision to remove the posts. The leadership team did not, however, remove one post by a white member of Gotham that expressed similar viewpoints about Gaza. Kyle explained to this Committee that since it was only one post and by a different poster, it was missed, and was ultimately taken down for consistency when it was brought to Gotham's attention by the member who posted it after ██████ posts were removed.

Prior to the posts being removed, Greg conferred with the leadership team as well as Grievance Officer Eric Eichenholtz about communicating the decision with ██████. Greg thereafter sent ██████ an e-mail that said that his posts made other members uncomfortable and that they were going to be removed. Greg's e-mail to ██████ stated as follows:

I'm reaching out based on your posts in the Gotham Volleyball :-) Facebook Group over the past 2 weeks.

There are many forums where political issues can be debated and discussed but that has never been the spirit or intent of the Gotham Volleyball :-) Facebook Group. Your posts have made other members uncomfortable and they have reached out to leadership to consider action.

While part of the beauty of Gotham is the diversity of thought and life experience of the membership, the Gotham Volleyball :-) Facebook group is not intended to be a place for folks to express or debate those views.

We will be removing all associated posts and hope that you can respect the intent of the Facebook Group moving forward.

The communication made no mention of the fact that the posts were too frequent, as Greg had originally expressed to the former member who sent the e-mail complaining about the posts. In fact, prior to this proceeding, there was, as far as the Committee can discern, no attempts to engage with ██████ to pass along or otherwise detail the concern that he was “spamming” the Facebook group with his posts. He was never warned his posts were concerning before their removal and, when the communication was made, the focus was on the political nature of his posts. ██████ expressed to the Committee during our meeting that he had previously had a dispute with Greg over the use of Gotham’s logo and found both that exchange and this e-mail to be hostile in tone.

██████ did not reply to the e-mail sent by Greg, explaining to the Committee that he did not see the value due to Greg’s past hostility to him.⁴ Instead, ██████ posted another post on Gotham Volleyball 😊 which questioning why Greg removed his posts and did not remove other posts that touched on political issues, including posts made by Greg himself about Bayard Rustin, an LGBTQ+ political figure involved in the civil rights movement who is the namesake of the school in which many of Gotham’s matches are played in. He concluded his post with “You are disgusting.” ██████ then authored numerous replies to his own post pointing out what ██████ believed were inequities in the action of removing his posts, including one that re-emphasized the post about Rustin saying of Greg, “You have posted about Rustin and civil rights, you fucking hypocrite.”

Following this post and the series of replies, Gotham President Kyle Williams decided to remove ██████ from the Gotham Volleyball 😊, sending an e-mail to ██████ saying he had been banned from the group “based on your post in response to [Greg’s original email].” Kyle explained at the meeting that the inappropriate nature of the comments in ██████ post were clear violations of the Sportsmanship and Anti-Violence Policy and necessitated removal.

⁴ ██████ did reply to the e-mail by sending an e-mail to grievance@gothamvolleyball.org three hours after the original e-mail to him and an hour before the e-mail from Gotham President Kyle Williams. The content of that e-mail included screenshots of his reply post and read “Clearly you are all complicit and will do nothing even if I submit a grievance. That’s too bad.” While originally viewed by the acting Grievance Officer as a statement of futility and therefore a statement that ██████ did not wish to proceed, subsequent engagement between ██████ and the acting Grievance Officer clarified that ██████ did, in fact, wish to challenge this decision through the grievance process.

DISCUSSION

The Committee has very little guidance in terms of rules and objective criteria to measure this complaint. What is clear is that the Gotham Volleyball Bylaws give discretion to the President of Gotham to oversee the day-to-day operations of the League and the Gotham Secretary and Chair of the Communications Committee likewise have authority. There are few written limitations to that authority, although the relevant here is the prohibition on differential treatment due to race. Similarly, at the time of this grievance there are very few reasons ever communicated to the membership that a post in the Gotham Volleyball 😊 is inappropriate, outside a violation of Gotham Volleyball's policies. As relevant here, at least with respect to the post that led to banning █████ from the group, is the Gotham Volleyball Sportsmanship and Anti-Violence Policy.

During our meeting, Gotham President Kyle Williams explained that the posts were removed because, in addition to the written complaint received, they were viewed by some members as "spam" by the way they overwhelmed the Facebook group. He explained that, in his experience, while some occasional posts of a political nature had been posted, none had been done with this frequency. Kyle explained, in his view, that no posts, political or otherwise, were posted with the same frequency and so dominated the group, a fact that is borne out by a review of posts in the group. Kyle explained that if there was just one post, or if the post had a closer connection to LGBTQ+ community building, the outcome may have been different.

Kyle also explained that he believed these posts lacked a "call to action," which does not appear to be the case. They were, in essence, invitations to various rallies and events that █████ sought to promote due to his strongly held views regarding the ongoing crisis in the Middle East. In this regard, they are like many posts that appear in the Gotham Volleyball 😊 by members promoting groups and causes meaningful to them.

Having reviewed the posts and the actions taken, there is no basis to support the idea that █████ was treated in this manner because of his race. While members post an occasional post about matters and issues meaningful to them (including at least one other member of a different race posting about violence in Gaza), we are unaware of any that match the frequency and repetitiveness of █████ posts. A member of Gotham who is white posted about Gaza and his post was not initially removed. However, that member's posting was different because he only posted once and his posts did not draw a complaint. These factors distinguish these posts from other comparisons made by █████ and other members who stated objection to deletion of these posts and claimed disparate treatment.

The question of whether the content of the post motivated their removal is a closer call. While the posts are distinguishable, the members of this Committee were unable to reach agreement on whether the posts would have been removed had they, hypothetically, had a different viewpoint or content.

A majority of the members of the Committee have reviewed the factual record and believe that the posts were removed because of their frequency and out of a concern by Gotham's leadership about excessive posting on a particular political issue. These members also believe there is no basis to conclude that the concerns about to

“politics” and “political posts” in Greg’s e-mails were a reference to [REDACTED] specific viewpoint or evincing a desire to silence [REDACTED] or his viewpoint specifically. Rather the reference to “politics” was a discussion of the leaders trying to balance the proper manner and forum to allow members to speak out on a potentially fraught topic.

Those in the Committee majority are also persuaded of this because the member complaint was concerned about political posts generally and Greg’s communications to that member consistently referenced the frequency of the posts. Neither individual referenced their viewpoint or specific content as problematic. The Committee majority believes, had there been this many posts expressing the opposite viewpoint on the same issue, such posting would likewise have drawn a complaint and ultimately been removed by the Gotham Leadership as well.

However, another member of the Committee has concluded, based on the use of the term “political post” that it was [REDACTED] viewpoint, and potentially a desire to remove that viewpoint from a Gotham forum, that motivated the Gotham leaders’ action. That member, while agreeing with the balance of this decision, has submitted a dissenting opinion on this topic which is appended to this decision.

Ultimately, the lack of objective guidelines here is what makes that determination a matter of speculation. Certainly, clearly communicating to [REDACTED] that the numerosity of his posts was important would have gone a long way to dispelling any misunderstandings about the intent of the leadership in removing the posts. It is also challenging to assess what is aligned with the “spirit of Gotham,” a subjective statement, in the absence of at least some objective criteria. The parties to this grievance certainly disagree regarding this phrase’s meaning. The Committee is also mindful that there was no specific written prohibition on political posts that could help guide members’ or leadership’s decision-making. The lack of objective criteria is the product of the history of the Gotham Volleyball 😊 group rather than any act or omission of any party here, but it nonetheless makes it almost impossible to draw any objective assessment of this portion of the grievance.

No one has requested restoration of the posts, and, given that most of them concern rallies already held, little will be gained by restoring them at this point. The Committee, however, was concerned about the rapid frequency and escalation of this dispute. Had [REDACTED] been told his posts were considered “spam” he may, or may not, have moderated his posts. At least then, however, [REDACTED] would have been notified of the concern and had the opportunity to self-moderate. While this may not have resolved the dispute, it would have provided an opportunity to cool down and achieve consensus before action was taken. Providing objective guidelines moving forward would also allow members to be on notice make their posts in a manner the organization deems is more appropriate use of the Gotham Volleyball 😊 group.

With respect to the removal of [REDACTED] from Gotham Volleyball 😊, the Committee believes that, while it was appropriate for the Gotham President to address the inappropriate content of [REDACTED] final post, an indefinite removal from the group is excessive. The Committee believes that some of the language used by [REDACTED] following the deletion of his posts directed toward Greg clearly violated the Sportsmanship and

Anti-Violence Policy⁵ and warranted a sanction. █████ has now been, in essence, suspended from the group for more than six weeks, which appears sufficient sanction to address the impropriety of █████ posts directed at Greg. In this regard, we note that █████ has been an active member of the Gotham community, including serving on this Committee, organizing tournament teams and taking on other positive leadership roles. In those roles he has been respectful of the Gotham community and of good sportsmanship. This positive and previously unblemished record mitigates heavily against a harsher sanction.

To be clear, a sanction here was warranted and our conclusion regarding the duration of the sanction does not, in any way, excuse the abusive language directed at Secretary Greg Rubin, directly and personally. Gotham leaders, especially Gotham's officers, work long hours as volunteers and are essential to creating the community and space we all cherish. They are elected by the members and tasked with making difficult decisions for Gotham and should not be abused, in any way, by the membership for making those decisions in good faith. As this Committee previously observed in reviewing a heated exchange between a Gotham leader and an aggrieved member, "[t]here is never an excuse for any member of Gotham Volleyball to use profanity or threats of violence. Regardless of the circumstances, no member should ever engage in such behavior."

On balance, we believe that a sanction was appropriate here and removal through the date of this decision is a sufficient sanction.

Conversely, █████ reported to this Committee at our meeting that he felt publicly attacked by another officer of Gotham, specifically referencing a public social media post about his removal from Gotham Volleyball 😊 made by Vice President for Division Play Bryan Hobgood, while this grievance was proceeding. █████ reported that this post, in his view, undermined the confidentiality attendant to Grievance Committee proceedings. Bryan, whose leadership position does not at all involve Gotham Volleyball 😊, posts of this nature, or sanctions for use of the group, presumably did not make that post as a spokesperson for Gotham. However, as a high-ranking officer of Gotham Bryan's words carried that weight. Generally, when Gotham Officers and Directors post their personal views concerning matters regarding Gotham as an organization, a statement clarifying the role in which they speak will often be necessary to avoid misunderstandings regarding whether they are speaking individually or for the organization.

While Bryan may also not have realized that his responding to a public post could implicate the confidences of the grievance process, such a public response by a Gotham officer has the potential to undermine the grievance process that is the right of every League member. Ultimately, in this case, there is no basis to conclude the post undermined the integrity of the Grievance process and we leave the question as to whether any further review of this issue is needed to the Board of Directors, which has jurisdiction over its members. However, generally, the Committee reminds Gotham

⁵ Amongst other sections, the Sportsmanship and Anti-Violence Policy provides in Sections III(1)(a) through Sections III(1)(j) that members are to be respectful amongst themselves and to League officials, not use abusive or inappropriate language and honor the safe space Gotham seeks to create.

Board members to be especially careful in discussing matters that may be pending before the Grievance Committee. Should Board members have any questions about the propriety of making such posts, the Grievance Officer is available for consultation and clarification.

As noted above, fashioning a remedy in this case was challenging. All participants, from ██████████ to the Gotham leaders to the members of this Committee all agree the grievance make clear that immediate changes and reforms are needed to the moderation and Gotham Volleyball 😊.

First, we acknowledge that the leadership of Gotham has already begun implementing a remedy. Gotham Secretary Greg Rubin, recognizing the concerns brought on by lack of a written policy, has already drafted proposed use guidelines for Gotham Volleyball 😊. That policy is as follows:

1) Group guidelines are Gotham Volleyball guidelines

We strive to build a positive space for the LGBTQ+ community. Just as it is on the court, Sportsmanship and Anti-Violence policies apply here.

2) No hate speech or bullying

Make sure everyone feels safe and supported. Bullying of any kind isn't allowed, and degrading comments directed to individuals or about things like race, religion, culture, sexual orientation, gender or identity will not be tolerated.

3) Be kind and courteous

We're all in this together to create a welcoming environment. Posts are not currently moderated, so let's treat everyone with respect and kindness.

4) No spamming the group with multiple posts

When multiple posts are made in succession, focus can be lost on the main objective of this group. Spam and irrelevant links aren't allowed.

In addition to this change, the Committee has the following observations and recommendations:

- The new guidelines remain silent as to the issue of whether political posts are permitted and, if so, what kind of posts. As discussed above, there is a need for guidelines to define and provide at least some objective context for words like “spirit of Gotham Volleyball” and “political post,” as well as raise awareness of the Gotham Bylaws and mission statement. The guidelines can also refer to relevant sections of the Bylaws and Gotham’s mission statement so that members have concrete guidance about what might be aligned with Gotham’s mission and what might not. The Committee also recommends a clear, written process to be used when posts are removed.
- ██████████ suggested, and the Committee agrees, that Gotham consider ways to re-activate the currently dormant Diversity and Inclusion Committee. This group, when successfully functioning, provided a critical voice for underrepresented populations in Gotham and was a good aid in helping Gotham leaders review and reform practices through a D&I lens.
- Another suggestion is to examine including restorative justice practices in Gotham’s dispute resolution processes to promote mutual understanding.

- Finally, the Committee recommends that the Gotham Board (or relevant Committee) take a fresh look at Gotham's social media presence. The Gotham Volleyball 😊 group is a throwback to when Facebook was the dominant social media platform and when Facebook groups were central to building community. Throughout this grievance, whether the Gotham Volleyball 😊 group has outlived its usefulness and purpose was an open question that ought to be examined. On the other hand, the group has over 1,900 members and eliminating it without a suitable replacement might harm Gotham's ability to build community. The Board may wish to consider whether, in the present social media landscape, it is worthwhile or useful to keep the group in its current form.

The Committee is mindful that Gotham as an organization strives to be inclusive as possible and Facebook is a forum for people to express themselves. While, under the Bylaws, the Grievance Committee is limited to the consideration of Grievances, members of this Committee are interested in helping with reform and willing to assist if needed. The Committee is also willing to serve as a part of the process of review and determination of complaints about posts to provide an objective perspective if such perspective is needed.

CONCLUSION

For the reasons discussed above, the Committee has determined as follows:

- 1) The Committee majority found no improper motivation of the removal of the Gotham Volleyball 😊 posts, but believes the matter escalated in a rapid manner due to the lack of communication between the leadership and ██████████ as well as the lack of clear criteria concerning the use of the Gotham Volleyball 😊 group.
- 2) The conduct of ██████████ in directing abusive language toward a Gotham Volleyball leader represented a violation of the Gotham Volleyball Sportsmanship and Anti-Violence Policy that justified action being taken by Gotham Volleyball Leadership.
- 3) The decision to ban ██████████ from the Gotham Volleyball 😊 Facebook group is upheld. However, it is modified to reverse the indefinite length of the ban, which the Committee believes is excessive. Instead, the Committee believes the length of the ban from the day it was imposed to the day of this decision is a sufficient sanction. ██████████ can be restored to the Gotham Volleyball 😊 group should he so desire.
- 4) The Committee requests the Board formulate policies for removal of posts from the Gotham Volleyball 😊 group that should include the requirement that a member be notified of the reason for the post's removal prior to the post being removed and, absent an emergency, time for the member to engage with the moderators on the issue.
- 5) The Committee recommends that the Board of Directors (either directly or through the relevant Committees) examine the other recommendations issued above.

NOTICE OF APPEAL RIGHTS

Under Article IX, Section 4(d) of the Bylaws of the Gotham Volleyball League and Section VI(h) of the Gotham Volleyball Sportsmanship and Anti-Violence Policy, any interested party may appeal this decision to the Gotham Volleyball Board of Directors within 10 business days of the Committee's decision. In order to be timely, any statement of reasons for appeal of this decision **must** be delivered by e-mail to Eric Eichenholtz, Acting Grievance Officer at grievance@gothamvolleyball.org on or before February 20, 2024.

DISSENTING OPINION

I disagree with the committee with respect to the allegation of bias resulting in unfair treatment of [REDACTED] posts.

The political nature of the posts was clearly an issue here.

- A. The situation leading to this issue came from a former member expressing concern that the topic of the political posts were “beyond the organization’s mission”.
- B. Via email and the update to the fb policy, the message to [REDACTED] was “no politics” as it was “not in the spirit of Gotham”. Note that this decision was discussed by multiple Gotham leaders and they were cc’d on the same email informing this message.

The posts were seen, not understood, othered (identified as not aligned with Gotham), and removed.

- This way of moderating is not inclusive and does not foster community. The sentiment of “not knowing what the objective/goal is for posting this way” (per the original email response to the initial complainer) or that the posts “had no call to action” (per the interviews after the fact with Gotham leadership) demonstrates a lack of understanding and a dismissal of engaging with the content. Mind you that this was after leadership came together to collectively discuss the posts. The posts were simple- they were different rallies taking place on different days. Posting frequently is the most basic form of advertising; in this case, advertising that a genocide is currently taking place AND being funded by US taxpayers and that there is an opportunity for Gotham to show up (quite literally an opportunity to build community) to call an end to this this horrible moment in history. Since this grievance began we’ve watched more and more international organizations and countries name the tragedy as genocide. At the time of writing this, 47 US cities have now called for a cease-fire and that number will no doubt continue to grow. The severity and urgency this situation calls for can not be understated. The fact that Gotham saw a member raising awareness about an issue like this and stopped it is incredibly disappointing honestly. Our community would be nowhere without activists. For [REDACTED] activism to be so misunderstood and disrespected is just sad.

Since the grievance, the apparent reasoning for the post’s removal is spamming.

- The new guidelines have added a new rule for “no spamming”

- The “no politics” rule was removed from the Gotham Volleyball