

# **Unauthorized legal expenses by AMSAT (2018-2020)**

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2 July 2020

According to AMSAT's IRS Form 990 tax filings in 2015 through 2017, AMSAT incurred no legal expenses. In 2018, this changed, with the IRS tax filing showing \$4,988.00 in legal expenses. More were incurred in 2019, and into 2020. I will address legal expenses from the Massachusetts-based law firm of Hurwit & Associates, expenses where there are no records showing the Board of Directors authorized the engagement of this firm.

I started looking through public AMSAT information after the 2019 AMSAT Symposium in Arlington, Virginia, where I attended my first Board of Directors meeting as a director. I asked the AMSAT Treasurer, Robert Bankston KE4AL (he assumed this post at the Board meeting during the 2019 Symposium in Arlington), to provide me details on the legal expenses I saw on financial reports since 2018, and on subsequent financial reports that directors and senior officers receive. Robert provided me this information, although at times with some delay. There appears to have been 4 instances where AMSAT engaged Hurwit & Associates. None of these engagements are documented in AMSAT Board of Directors meeting minutes. AMSAT's accounting system has records of payments made to that firm since 2018.



In late 2017, Joe Spier K6WAO replaced Barry Baines WD4ASW as AMSAT President. The Board of Directors when Joe Spier became President was:

- Jerry Buxton N0JY (also Vice President of Engineering)
- Tom Clark K3IO
- Clayton Coleman W5PFG (also Secretary)
- Drew Glasbrenner KO4MA (also Vice President of Operations)
- Mark Hammond N8MH
- Bruce Paige KK5DO
- Paul Stoetzer N8HM (also Executive Vice President)

Early in 2018, AMSAT engaged the law firm of Hurwit & Associates, related to complaints Michelle Thompson W5NYV sent AMSAT regarding the conduct of AMSAT directors and senior officers. AMSAT paid three invoices for this work, totaling \$3,262.50:

- \$1,000.00 in April 2018
- \$1,349.00 in May 2018
- \$ 913.50 in July 2018

These expenses were recorded in AMSAT's accounting system as:

"legal advice regarding handling false accusations by Michelle Thompson against several board members and officers"

Joe Spier reported to the Board of Directors on 1 May 2018 the results of his investigation of Michelle's complaints. None of Michelle's complaints were found to be false. Joe was actually able to substantiate one of her complaints. This is a far cry from finding any of Michelle's complaints to be false, as the description for those expenses indicated.

In June 2018, the AMSAT Board approved a Non-Discrimination and Harassment Policy:

<https://www.amsat.org/wordpress/wp-content/uploads/2018/04/AMSAT-Non-Discrimination-Policy.pdf>

This policy may have been prepared with the assistance of Hurwit & Associates as part of the \$3,262.50 AMSAT spent for this engagement, possibly as a result of Michelle's complaints. Unfortunately, there are no records behind this engagement that would show what the Hurwit & Associates lawyer did for the \$3,262.50 AMSAT paid – the equivalent of over **74** AMSAT memberships at \$44/year.



In March 2019, AMSAT engaged Hurwit & Associates again. This time, AMSAT received a single invoice for this work, for \$1,558.00. This expense was recorded in the AMSAT accounting system as:

"legal advice related to the harassment of Drew Glasbrenner by Patrick Stoddard"

In late 2018 and into 2019, I criticized AMSAT's use of its social media accounts, which were managed at that time by Drew Glasbrenner. Drew complained to the Board of Directors about my public complaints, claiming I harassed him, but Drew did not make a formal claim of harassment against me under the policy the Board implemented in 2018. Instead, in mid-April 2019, Joe Spier informed me that I violated AMSAT's Acceptable Use Policy for AMSAT mailing lists, for engaging in a personal attack on Drew. Joe Spier removed me as a moderator for AMSAT's mailing lists, removed me from being a part of AMSAT's internal I.T. support group, and put me on moderated status for posting on the AMSAT-BB mailing list for a period of 6 months (later reduced to 3 months). I appealed this finding, but Robert Bankston KE4AL (AMSAT's Vice President of User Services and Director of AMSAT Ambassadors at the time, and now also Treasurer) upheld this finding.

Since no formal harassment claim was filed, why was there a need for a lawyer? Was AMSAT looking to punish me further for daring to criticize the organization? AMSAT could have ended my appointment as an AMSAT Ambassador, an appointment I have held since 2006. AMSAT did not take this action. So why the need for \$1,558.00 in legal advice?

One reason for the legal advice could be that AMSAT officers were pursuing other options to sanction me. Did AMSAT want to strip me of my AMSAT life membership?

AMSAT's bylaws allow for a member to resign his/her membership, but does not provide a way for AMSAT to terminate a membership. The District of Columbia Nonprofit Corporation Act's section 29-404.21(a) states the following:

"A membership in a membership corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws."

AMSAT's articles of incorporation and bylaws are available at:

- <https://www.amsat.org/articles-of-incorporation/>
- <https://www.amsat.org/bylaws-of-the-radio-amateur-satellite-corporation/>

These documents do not provide a way for AMSAT to suspend or terminate a membership. AMSAT's articles of incorporation are silent on the subject. AMSAT's bylaws, in Article I Section 1, state:

"Membership as Member or Member Society shall become effective upon receipt of the appropriate completed application form and dues by the Secretary, and shall cease immediately upon resignation or upon expiration of the period for which dues have been paid."

I purchased a life membership in 2009, and have not resigned my membership. I have no intention of resigning my AMSAT membership.

Were AMSAT officers seeking to terminate my life membership? With no records related to any of the engagements with Hurwit & Associates, I can't say why there was a need to seek legal advice. Joe Spier took actions under his authority as President under the policy for the mailing lists, which should not have required legal advice. So AMSAT paid Hurwit & Associates \$1,558.00 for .... what? The \$1,558.00 AMSAT paid Hurwit & Associates is equal to just over 35 AMSAT memberships at \$44/year.



AMSAT engaged Hurwit & Associates again in the summer of 2019, this time related to the 2019 Board of Directors election. AMSAT received a \$1,025.00 invoice from Hurwit & Associates, which AMSAT paid in late September 2019. Why the need for legal advice? This is what was recorded in the AMSAT accounting system:

"legal advice relating to the 2019 election of Directors"

Candidates had questioned Clayton Coleman W5PFG, in his capacity as the corporate secretary responsible for managing the election, on some of the restrictions he placed on the statements candidates could submit. I had also questioned Clayton's report published in the 6 July 2019 AMSAT News Service bulletin:

<https://amsat.org/pipermail/ans/2019/001116.html>

In this bulletin, Clayton explained that a post card would be mailed out to members, containing a bar code and a link to a web site. Clayton also said:

"In the event that you are unwilling or unable to cast your ballot via the online mechanism, ElectionBuddy will mail you a specific ballot that must be returned to them within the parameters of our election time frame so that it is received by the office no later than September 15, 2019. If you choose this option, please understand it is at an increased cost to the organization."

ElectionBuddy was the vendor AMSAT used to manage the 2019 Board of Directors election.

I questioned this, given that AMSAT's bylaws require ballots to be mailed to the membership by 15 July of each year for the Board of Directors election. Article III Section 3 of the bylaws state:

"Voting shall be conducted by secret ballot in a fair and democratic manner. The Secretary shall prepare written ballots listing all candidates found to be duly nominated and eligible for election. Such ballots shall be mailed to all Members or, at the Secretary's discretion, included in a publication of the corporation mailed to all Members, in either event such mailing to take on or before July 15 of each year."

A few days later, Clayton informed me and the other candidates that a ballot would be mailed to the membership by 15 July. So why the need for legal advice? The legal advice might have been sought to see if the "ballot card" Clayton proposed to mail members - containing a bar code and a link to the web site for casting a ballot online - would have complied with the bylaws. Based on my reading of the AMSAT bylaws, I could tell that the "ballot card" would not meet the requirement of the AMSAT bylaws, without having to pay for legal advice.

In the end, ballots were mailed, and members had the option to either vote using the paper ballots, or cast their ballot online. The 2019 election cost AMSAT almost \$13,000.00, plus \$1,025.00 for the legal advice from Hurwit & Associates - equivalent to almost **24** AMSAT memberships at \$44/year. Perhaps the bylaws will be amended in the future, to remove the mandate that ballots have to be mailed to members, where an election can be fully conducted online.





AMSAT engaged Hurwit & Associates one more time, in late 2019. This engagement went into 2020. Not only did this engagement last longer than the others, it raises many more questions regarding the conduct of AMSAT directors and officers.

After the AMSAT Board of Directors election in the summer of 2019, the AMSAT Board of Directors was:

- Jerry Buxton N0JY (also Vice President of Engineering)
- Tom Clark K3IO
- Drew Glasbrenner KO4MA (also Vice President of Operations)
- Mark Hammond N8MH
- Bruce Paige KK5DO
- Patrick Stoddard WD9EWK
- Michelle Thompson W5NYV

Clayton Coleman W5PFG decided not to run for reelection, and – at the time he published the results of the Board election – remained as Secretary. Paul Stoetzer N8HM lost his bid to remain on the Board, but remained as Executive Vice President. Michelle and I took their seats on the Board.

When new directors join the Board, the AMSAT bylaws state in Article II Section 2:

"The retiring Directors shall be responsible for assuring the orderly and effective transfer of records and responsibilities to the incoming Directors."

Michelle and I received nothing related to records or responsibilities from Clayton or Paul at the start of our terms. Neither Clayton nor Paul mentioned that AMSAT had previously engaged Hurwit & Associates. Clayton resigned as the Secretary the day after announcing the results of the 2019 election, something that had not been announced by AMSAT. A couple of days later, Clayton e-mailed me a tirade demanding I take down my web page that had my statement regarding my candidacy to join the Board, which was followed by similar tirades from two other senior officers – one of which was rather vulgar.

AMSAT's Board of Directors and senior officers have the use of private mailing lists hosted on an AMSAT server. After Michelle and I finally joined the Board of Directors' mailing list, we saw that the archives of that list had been purged. The mailing lists use the same software as AMSAT's public mailing lists, and I was aware of this list when I served as an alternate on the AMSAT Board between 2011 and 2013. I expected to see years of past messages on the Board of Directors list, which would help me get acquainted with AMSAT Board activities in recent years. When pressed by Michelle and me about getting access to those archives, Joe Spier told us we would need to sign non-disclosure agreements at the upcoming Board meeting during the 2019 AMSAT Symposium in Arlington, Virginia. Once we signed these non-disclosure agreements, we would gain access to those archives. So we waited...

Before the Board meeting at the Symposium in mid-October 2019, Michelle and I - along with other directors and senior officers - received copies of non-disclosure agreements AMSAT signed with other organizations. During the Board meeting at the Symposium, all directors and senior officers had to sign an acknowledgment of the non-disclosure agreements. None of these agreements related to AMSAT directors accessing AMSAT corporate records, and I asked Joe Spier about this before the end of the Symposium. I was told that he would discuss this further, in the week after the Symposium.

On 24 October 2019, the Thursday following the Symposium in Arlington, Joe Spier and I had a hour-long phone call. Along with us on the call was Janet Rickershauser, a lawyer with Hurwit &

Associates. This phone call started out with Joe explaining that the archives of the Board of Directors mailing list archives contained "personnel discussions" and "how do we deal with the confidentiality of the people that are in the board as new members come on board." Joe mentioned that he "can't have the position of one board member suing another board member and AMSAT having to pay for the legal fees of both of those board members" - even though Michelle and I never said anything about seeking legal action. He went on to say, "Because the optics of that is we're spending all the corporation's funding on legal cases". Of course, this statement ignored the fact I pointed out at that time, that AMSAT was paying for a lawyer to be present on the phone call.

I referenced the District of Columbia Nonprofit Corporation Act, the law governing corporations like AMSAT that are incorporated in Washington, D.C., regarding access to records by directors. The section related to a director's ability to access corporate records is section 29-413.05(a), which states:

"A director of a nonprofit corporation shall be entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the directors' duties as a director"

The use of "shall" makes this a mandatory requirement, and not optional. Joe Spier then tried to claim that directors should only have access to records during their time on the Board, and also mentioned he felt a policy or bylaw change would be needed related to confidentiality. In the end, there was no agreement on how to resolve this. After early November 2019, I didn't hear anything else from Joe Spier – no phone calls, no e-mails, nothing.

After the 24 October 2019 phone call with Joe Spier and Janet Rickershauser, more legal expenses appeared in subsequent financial reports:

- \$5,281.00 in December 2019
- \$1,755.00 in January 2020
- \$ 112.50 in February 2020
- \$3,172.50 in March 2020

These expenses total \$10,321.00, or the equivalent of over **234** AMSAT memberships at \$44/year. The \$5,281.00 expense was listed in the AMSAT accounting system as:

"Organizational Ques, Conflict of Interest, Anti Discriminatory Policy"

This description does not appear to accurately represent the reason for the expense, based on the phone call I had with Joe Spier and Janet Rickershauser. It appears the December 2019 expense, and the 3 expenses in 2020, were part of an effort by Joe Spier to deny Michelle and me access to AMSAT corporate records.

Michelle and I retained our own counsel for legal advice after that phone call, leading to a formal demand letter sent to AMSAT in late January 2020. Our demand letter cited the District of Columbia law regarding access to records by directors, and that we needed this access to fulfill our fiduciary obligations as directors. Three days after Michelle and I sent our demand letter, Joe Spier resigned as AMSAT President.

A few days after Joe Spier's resignation, on 4 February 2020, there was a special meeting of the AMSAT Board of Directors. Clayton Coleman W5PFG, a former director and corporate secretary, was elected to succeed Joe Spier as AMSAT President.

Clayton spoke to the AMSAT membership in an AMSAT News Service bulletin on 16 February 2020:

<https://amsat.org/pipermail/ans/2020/001162.html>

In that statement, Clayton made the following assurance:

"My priority, now underway, is to ensure all Directors have equal access to AMSAT resources to perform their duties. AMSAT complies with Section 29-413.05 of the District of Columbia Nonprofit Corporation Act of 2010."

At the time Clayton made this statement, AMSAT was actually **not** in compliance with the District of Columbia law. Michelle and I were still being denied access to the archives of the Board of Directors' mailing list. Access to the full archives of the Board of Directors' mailing list was finally provided in late February 2020.

Until May 2020, it appeared to me that Clayton was turning AMSAT away from the path it was following during Joe Spier's tenure. Unfortunately, by May 2020, it appeared things were not continuing to move in the right direction. Directors and senior officers either denied any involvement with Hurwit & Associates, or would refuse to answer questions about these expenses. On 5 May 2020, I asked to see copies of canceled checks AMSAT used to pay the Hurwit & Associates invoices since 2018. After I made that request, Paul Stoetzer N8HM - a former director, and current Executive Vice President - sent an e-mail to directors and senior officers on 11 May 2020. Paul's e-mail was a justification of all Hurwit & Associates expenses since 2018.

For all of these expenses, Paul Stoetzer claimed that AMSAT officers incurred these expenses with "the full knowledge and consent of the Board." AMSAT bylaws make clear how the consent of the Board is given for financial obligations (expenses), in Article II Section 1:

"No financial obligation shall be incurred by or on behalf of the corporation except by prior approval of the Board; provided, however, the Board may, at its discretion, authorize any Officer or Officers to incur such obligations and/or to approve such necessary or incidental obligations as may be incurred by officials acting under such Officers' authority, subject to such limits and procedures as the Board shall determine."

There is no record in the minutes of AMSAT Board meetings showing where the Board authorized the engagement of Hurwit & Associates, nor of incurring these legal expenses. There is no record of the Board authorizing any officer to engage this firm. Not even a reference to this firm being discussed in an executive session. As for Paul's claim of "full knowledge and consent of the Board", this is a false statement since September 2019, when Michelle and I joined the Board. We were never advised of the off-the-record use of Hurwit & Associates. The only way we became aware of these expenses was by examining tax returns and monthly financial reports, followed by requesting information on details of the legal expenses seen each month. Since the AMSAT bylaws spell out how the Board gives its consent to financial obligations, I feel that all engagements with Hurwit & Associates from 2018 into 2020 were not in compliance with the bylaws.

If the AMSAT Board of Directors had "full knowledge and consent" of these expenses, why did Paul Stoetzer wait until May 2020 to point this out? I had initially e-mailed the Board of Directors and senior officers about legal expenses I found that were not authorized by the Board in December 2019. Between December 2019 and my request to see copies of the canceled checks used to pay Hurwit & Associates in May 2020, Paul said nothing. Other directors and senior officers also remained silent. Why? Did Paul sign any - or all - of these checks? Did Paul actually know of the use of Hurwit & Associates over the previous two years? And what about the other directors who were on the Board before September 2019?

In an April 2020 phone call with AMSAT President Clayton Coleman, Clayton told me that office manager Martha Saragovitz and Executive Vice President Paul Stoetzer normally sign AMSAT's checks. If this is true, Paul would have had knowledge about these engagements, going back to 2018. As for the rest of the Board of Directors, none of them - except for Michelle Thompson - supported my efforts to track down these expenses that appeared in AMSAT's finances. AMSAT Treasurer Robert Bankston KE4AL received my questions about legal expenses starting in November 2019, yet these expenses continued into 2020. It does not appear Robert made any efforts to investigate these expenses.

When I first asked Robert Bankston about these expenses, he told me in an e-mail on 22 November 2019:

"I cannot answer the questions relating to the initial authorization of the legal expenditures, as I did not serve in my current capacity as Treasurer during that time frame. You will have to direct those questions to the Board of Directors and President."

Robert would not address the matter of new Hurwit & Associates expenses since becoming Treasurer in October 2019, other than providing me the details behind totals I saw on the monthly financial reports.

Robert reported to the Board of Directors on 17 March 2020 about AMSAT's finances. In that report, which was posted on AMSAT's web site and referenced in an ANS bulletin:

- <https://www.amsat.org/amsat-treasurers-report/>
- <https://amsat.org/pipermail/ans/2020/001169.html>

Robert said in his report that "AMSAT is fully committed to financial transparency." He also said, "I have already identified and started to implement cost-saving and budgetary control measures that can and will make us more efficient." After more than three months since his report, Robert has yet to inform the Board of these new measures. I have asked for details on these measures, and have not heard anything from either Robert or Clayton about them. Based on what happened with these Hurwit & Associates expenses over two years, it appears there are few - if any - budgetary controls currently in place for AMSAT's finances. In my opinion, these unauthorized expenses show AMSAT is far from being - as Robert said in March 2020 - "fully committed to financial transparency."



In the end, it is sad to see that AMSAT officers spent \$18,503.50 over two years – the equivalent of over **420** AMSAT memberships at \$44/year - without any record of the Board of Directors authorizing these Hurwit & Associates expenditures. No authorization recorded in Board meeting minutes, nor any mention of an executive session where sensitive matters like engagements with law firms are usually addressed by corporations. Paul Stoetzer's e-mail in May 2020 saying that the Board knew about this is far from satisfying the requirements in AMSAT's bylaws regarding financial obligations – if the Board knew of these expenses over the past couple of years. **These are funds that should have been used for other purposes** - like building and launching satellites.

In April 2020, AMSAT sought a \$17,700.00 loan under the U.S. government's Paycheck Protection Program (PPP), as part of the CARES Act which was enacted in March 2020. The \$18,503.50 spent by AMSAT over two years on unauthorized legal expenses exceeded the amount of the PPP loan. Even though AMSAT had hundreds of thousands of dollars available to it in its bank account and investments, the \$18,503.50 spent on the unauthorized legal expenses would have certainly avoided the need to seek a PPP loan – even though the PPP loan is forgivable.