

2005 KSA General Election Decisions

The following notes and decisions have been compiled by the Chief Returning Officer from communications received relating to the General Election held 24 and 25 February 2005. Communication numbers identifying each item refer to the C.R.O.'s file numbers.

Note, on each decision the C.R.O. considered his jurisdiction over the complaint pursuant to the Regulations, that is, that the protest or complaint: (A) (i) was submitted within 72 hours of the occurrence or the discovery of the occurrence to which it relates; and (ii) is signed by at least 3 members who personally witnessed or otherwise were privy to the incident or (B) (i) where the CRO took notice of a possible election irregularity. **Unless otherwise noted**, the C.R.O. has found that each communication considered below is within his jurisdiction according to KSA regulations.

Section I – Issues concerning the conduct of the C.R.O. and his administrative staff / poll clerks

Decisions issued 24 March 2005

Communication 20:

Summary:

An allegation that the “elections committee” was dissolved by the C.R.O. because of disagreements between the C.R.O. and the “committee”. Also an allegation that the C.R.O. is biased in favour of certain candidates. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 20**

Summary of comments:

The Progressive Party questions the legitimacy of any information any candidates received about the operations of the “committee” save their official, public rulings. Further, they assert that if the “committee” did dissolve because of a disagreement then the dissolution was justified due to members of the group leaking confidential information. No other comments were received.

Analysis:

“Elections Committee”

- Regulation Section X 1 2 – Elections Committee appointed by council with specific requirements for members. There was no Elections Committee appointed by council.
- Regulation Section IV also applies – except where otherwise indicated in Section X.
- Regulation Section IV 2 1 – Council shall appoint the members of all committees. Council did not appoint an Elections Committee

- Regulation Section IV 3 1 – Chair of the Elections Committee not necessarily a member of Council or KSA staff. This regulation does not prohibit the current C.R.O. from holding office.
- Regulation Section X 2 3 – The C.R.O. shall, within reason, assume the responsibilities of the committee as long as necessary [in the absence of a committee].
- The C.R.O. has assumed the responsibilities of the committee in the absence of an Elections Committee.
- Regulation Section X 3 1 vii – The C.R.O. is the official spokesperson for the committee.
- There are no provisions in the Bylaws or Regulations that suggest the C.R.O. has power to appoint an Elections Committee – only Council has that power.
- Therefore the group that has been described as the “elections committee” in fact only functioned in an advisory capacity and hereafter will be referred to as the administrative staff.
- As a result, the C.R.O. acted within his power to dissolve the administrative staff group.

Analysis:

Bias

- Bias or prejudice is a leaning, inclination, bent, or predisposition towards one side or the other. Bias is a condition or state of mind which sways judgment and renders a judicial officer unable to exercise his or her functions impartially in a particular case. See *R v. Bertram*, [1989] O.J. No. 2123 (QL) (HC).
- Impartiality does not require an empty mind. Judges may be impartial despite having opinions or life experiences relating to the issues that are before them. *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484.
- Judges operate from their own perspectives. Benjamin N. Cardozo in *The Nature of the Judicial Process* (1921).
- The question is whether or not the decision-maker will apply the law in a particular case, not whether or not he or she has certain views about it. *R. v. F. (S.M.)*, 2003 ABQB 725.
- Where it is established that “the judge brought or would bring prejudice into consideration as a matter of fact” that “will inevitably lead to the disqualification of the judge”. *Wewaykum Indian Band v. Canada*, [2003] 2 S.C.R. 259.
- However, actual bias is a largely unworkable test so the standard for disqualification in Canadian law is the “reasonable apprehension of bias”.
- The test for a reasonable apprehension of bias is “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision maker], whether consciously or unconsciously, would not decide fairly.” *Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369 at p. 394.
- The reasonable person does not expect that judges will function as neutral ciphers. The reasonable person expects judges to undertake an open-minded, carefully considered, and dispassionately deliberate investigation of the complicated reality of each case before them. The reasonable person does demand that judges

- achieve impartiality in their judging. Before concluding that there exists a reasonable apprehension of bias in the conduct of a judge, the reasonable person would require some clear evidence that the judge in question had improperly used his or her perspective in the decision-making process. *R. v. S.(R.D.)*, supra.
- A reasonable apprehension of bias rests on serious grounds. *Wewaykum*, supra.
 - A reasonable apprehension is more than a mere suspicion. *S.(R.D.)*, supra.
 - Where an allegation of bias arises, impartiality “must be presumed”. This presumption is strong and carries considerable weight. *Wewaykum*, supra.
 - The onus of demonstrating bias lies with the person who is alleging its existence. *S.(R.D.)*, supra.
 - The presumption of impartiality can be displaced with cogent evidence that demonstrates that something the judge has done gives rise to a reasonable apprehension of bias. *S.(R.D.)*, supra.
 - No cogent evidence is presented in this case.
 - It is important that decision-makers not immediately recuse themselves where an allegation of bias is raised against them. Canadian Judicial Council, *Ethical Principles for Judges* (Ottawa) p. 29.
 - We hear so much angry objection these days that we must be careful to insure that important rights are not sacrificed merely to satisfy the anxiety of those who seek to have their own way at any cost or at any price. *G.W.L. Properties Ltd. v. W.R. Grace & Co. of Canada*, (1992), 74 BCLR (2d) 283 (BCCA).
 - A decision to disqualify should only be exercised sparingly and in the most clear and exceptional cases. *Middlekamp v. Fraser Valley Real Estate Board*, (1993) 83 B.C.L.R. (2d) 257 (BCCA).
 - It is an abdication of the judicial function and an encouragement to procedural abuse for a judge to take the view that there ought to be an automatic disqualification after merely a submission of bias by counsel. *Disqualifying judges for Bias and Reasonable Apprehension of Bias: Some Problems of Practice and Procedure*, (2001) 24 Advocates Quarterly 326 at pp. 327-328.
 - There is probably a duty on the decision maker to make the assessment [of his or her own bias]. *Administrative Law*, Toronto: Irwin Law, 2001.
 - Bias does not mean that the judge is less than unfailingly polite or less than unfailingly considerate. Bias means a partiality to one side of the cause or the other. It does not mean an opinion as to the case founded on the evidence nor does it mean a partiality or preference or even a displayed special respect for one counsel or another, nor does it mean an obvious lack of respect for another counsel, if that counsel displays in the judge’s mind a lack of professionalism. *Middlekamp*, supra.

Decisions:

- Based on the above set out legal principles, the C.R.O. is required to make decisions assessing bias related allegations against him. The allegations in this communication do not disclose any clear evidence of bias. The allegations are vague and do not specify the source of the alleged bias. No evidence of reasonable apprehension of bias is disclosed by the complaint. The complainant does not succeed in overcoming his onus to demonstrate, based on cogent evidence, a reasonable apprehension of bias. There is no evidence that this is a

clear and exceptional case. The C.R.O. should, therefore, not disqualify himself based on this complaint.

- The C.R.O. acted within his authority in dissolving the administrative staff group.
- There is no reason why ‘disagreements’ with the advisory group, in itself, is evidence of actual or apprehended bias.
- As no evidence of actual bias or apprehension of bias is presented, **the complaint is dismissed in its entirety.**

Communication 21

Summary:

An allegation that the C.R.O. appointed an “elections committee” and that the “committee” should have power to overturn decisions by the C.R.O. A lengthy review of certain regulations concerning the powers of an elections committee is recited. There is a further allegation of bias by the C.R.O. A request to remove the C.R.O. and appoint an independent organization to continue the spring election at a later date is contained. The complainant cites on alleged failure of the Progressive Party with regard to registration and alleged failure of the CRO to act on the complaint is cited as evidence of CRO bias.

Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – copied to Penny Minor, Laura Anderson, Mohammed Kallas, Skip Triplet, and the Kwantlen Chronicle –
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Summary of Comments received:

The Progressive Party suggests that this communication is not well thought out. They point out that the C.R.O. does indeed have a professional relationship with all incumbent candidates including the signers because of his work at the KSA. They also discuss the registration status of the Progressive Party [which is dealt with in Section VIII below]. No other comments were received.

Analysis:

The analysis above concerning the administrative staff and bias are the same as in communication 20.

- Per communication 20, Erin Minor and Pavan Bassi were not appointed by the C.R.O. in any official capacity, only as administrative staff. Coreen Mason was only hired as a chief poll clerk and never functioned in any other capacity.
- Per communication 20, the C.R.O. does not have jurisdiction to appoint the elections committee, only council has this authority.
- Per communication 20, the grounds set out as evidence of bias or apprehension thereof are not sufficient to sustain the complaint.
- Allegations regarding the Progressive Slate registration will be dealt with in Section VIII of this report.

Decision:

- **The complaint is dismissed in its entirety.**

Communication 29a

Summary:

An allegation by the Progressive Party that the unofficial “elections committee” was biased against them on the ground that two of its members (Pavan Bassi and Erin Minor) were biased against the incumbent executive [due to Pavan Bassi and Erin Minor’s union affiliation and possibly other work related issues]. A request that all decisions made with the involvement of Pavan and Erin be reviewed and appropriate action taken – including re-running the election if necessary. **Signed by Sammy Chau, Forrest Li, and Kristina Kearley – 2**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- No “elections committee” was ever constituted. The elections committee is the C.R.O. as was determined by council. Council purposely appointed no other members to the election committee. As such, the Regulations require the CRO to exercise the duties and responsibilities of the election committee. As such, the CRO did not, as alleged, appoint an elections committee.
- The C.R.O. did not find the assistance of Mr. Bassi and Ms. Minor helpful, as the C.R.O. found that them inefficient and an impediment to his administering of the election. As the administration of the election is a positive duty of the CRO set out in the KSA Regulations, the C.R.O. exercised his power properly to decline to receive further assistance from the administrative staff.
- The administrative staff’s only role was to present background information regarding candidates’ campaign materials to the C.R.O. All decisions were determined by the C.R.O.
- There is no evidence that the administrative staff made any determinations approving or disallowing materials that were not seen by the C.R.O.
- As such, there is no evidence of the administrative staff making decisions in the course of the election.

Decision:

- All election decisions within the jurisdiction of the C.R.O. were made by the C.R.O, therefore, the administrative staff made no decisions and the communication is without foundation.
- Since the administrative staff did not have the power to make decisions and all decisions were made by the CRO, the allegation of bias or apprehension, thereof, is immaterial.
- **The complaint is dismissed in its entirety.**

Communication 34

Summary:

This communication appears to be identical to communication 29(a) above (unofficial “elections committee” biased). **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communications 33, 35, and 36 – 34**

Summary of Comments Received:

No submissions or comments were received.

Decision:

- Per the analysis and decision in communication 29a above, **the complaint is dismissed in its entirety.**

Communication 23***Summary:***

An allegation that Duncan McDonald had been advising the C.R.O. about certain complaints and that he had access to confidential complaints and materials during the election. Request that the C.R.O. and the “elections committee” prevent currently elected officials from having access to “committee” meetings, records, and other processes of the 2005 General Election. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 23**

Summary of Comments received:

Essentially the Progressive Party agrees that it would be inappropriate for Duncan McDonald to influence the election or the C.R.O. and challenge the signers to produce evidence of inappropriate conversation or influence.

Analysis:

- The complainant cites no evidence of the allegation. There is no information regarding the alleged access to confidential complaints, beyond the bald statement itself. There is no evidence regarding the alleged advice, or even the nature of the alleged advice, to the C.R.O.
- The C.R.O. agrees with the comments of the Progressive Party that it would be inappropriate for Duncan McDonald to influence the election or the C.R.O.; however, there has been no evidence of such influence occurring.
- The complainant had the opportunity through the comment process to provide evidence of the allegations, but failed to do so.

Decision:

- Based on the lack of any evidence whatsoever regarding the allegations, the **complaint is dismissed in its entirety**

Communication 39***Summary:***

An allegation that the Newton ballot box was stolen and that the C.R.O. was not fulfilling his obligation to keep the ballot box secure. The communication also contains an allegation that Duncan McDonald told [a] poll clerk not to hand out multi-campus ballots for a four hour period on Thursday and that Mr. McDonald is biased in favour of the Progressive Party. **Signed by Steve Lee, Arka Movsessian, and Lisa Coan – 39**

Summary of Comments received:

The Progressive Party suggests that it would be inappropriate for poll clerks to take directions from the Director of Finance, Duncan McDonald. They also wonder why the Progressive Party is mentioned in the communication.

Analysis:

- The Newton ballot issue was dealt with in Decision A and Decision 39 (regarding the Newton Ballot Box) issued on 18 March 2005 (the “18 March 2005 Decision”).

- With regard to the allegations involving Mr. McDonald, one comment was received from the Progressive Party. This comment does not provide any assistance with regard to the merits of the complaint.
- In the C.R.O.'s investigation of the communication, the C.R.O. interviewed several poll clerks, and other individuals including Duncan McDonald, Duncan Keist, and Rob Evans.
- The C.R.O. confirms that during polling he intended to convey a message to poll clerks confirming his written directions in the Instructions to Poll Clerks manual that members were only permitted to vote on their home campuses.
- The C.R.O. confirms that, as a matter of convenience, he allowed Mr. McDonald to phone KSA campus offices to communicate the C.R.O.'s message. Given the volume of tasks being performed, the C.R.O. felt it would not be inappropriate to allow Mr. McDonald, who was present at the time, to conduct a very simple administrative task on his behalf (just as he would have allowed Mr. McDonald to make a photocopy or coffee for him).
- All evidence in the C.R.O.'s investigation of this matter disclosed that the written Instructions to Poll Clerks were followed on the Langley and Surrey campuses.
- With regard to the Richmond campus, Mr. Keist informed the C.R.O. that on February 24 & 25th, in relation to the executive and liaison positions, non-Richmond registered students were permitted to vote.
- Clearly an error in communication occurred. However, there was no evidence that the error was made purposely or with any ill intent. In fact, this error may well have occurred regardless of who conveyed the message.
- Furthermore, the miscommunication error does not in anyway have any material effect on the election as there is no evidence on the record which demonstrates that any candidate was advantaged or disadvantaged by the error.
- As such, the CRO regrets this miscommunication; however, despite the error, there is no evidence of any material effect on the election.
- With regard to the bias allegation, the complainant has presented absolutely no evidence as to how an unintentional and inadvertent error in the carrying out of an administrative task could have the effect of actual or apprehended bias.
- Even if the allegation regarding Mr. McDonald's distaste for some candidates was proved to be true, Mr. McDonald was not acting in a decision-making capacity. The application of the administrative task Mr. McDonald was allowed to carry out could not have any possible impact on the election results. The multi-campus rule is merely a rule to assist the C.R.O. in confirming that double voting has not occurred in an election. The breach of this rule has no material bearing on the election.
- Finally, the complaint only specifically addresses the multi-campus balloting issue with regard to the Newton campus. Since the Newton campus will be re-pollled per the C.R.O.'s 18 March 2005 Decision, the matter is moot.

Decision:

- The complaint with regard to the multi-campus balloting communication is **sustained** insofar as the finding of the CRO that Mr. McDonald was permitted to perform the administrative task as set out and that a miscommunication occurred.

As no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.

- **All other aspects of the complaint are dismissed in their entirety.**

Communication 47

Summary

An allegation that Duncan McDonald told poll clerks not to give out multi-campus ballots. That Mr. McDonald did not have the authority to make this request / order. That there was an approximately four hour period when multi-campus ballots were not handed out – particularly at Newton. That the C.R.O. should have better instructed the poll clerks. There is an allegation that preparation of the ballots was delegated to Laura Anderson, current Director of External Affairs and candidate for Langley Representative, and to other staff, and that this was inappropriate. There is a suggestion that poll clerks on every campus misinformed voters about the multi-campus ballots. A request that the election be declared invalid. **Signed by Tappy Tiwana, Jamsheed Khan, Aaron Takhar, and Mat Huff – 47**

Summary of comments received:

The Progressive Party believes that this communication is in the nature of slander. They do not deny that some communications [from R.A.F. Party and C.S.I. Party supporters] may have some validity but believe that the totality of the communications points to an effort to [force a new election]. The Progressive Party asserts that the best approach would be for the General Manager to come to Council with new options for running future elections.

Analysis:

- Per communication 39, the same logic applies regarding the complaints involving Mr. McDonald both with regard to issues of bias and the actually task performed.
- Regarding Ms. Anderson, the C.R.O. allowed Ms. Anderson to format the ballots using the candidates' list. As in communication 39, with regard to Mr. McDonald, the task was completely administrative. Furthermore, no errors in the carrying out of this task are alleged.
- With regard to the allegation of conflict of interest, Regulation X 5 contains all rules pertaining to conflicts of interest. There is no evidence that Ms. Anderson's administrative formatting ballots breaches any conflict of interest rules contained in the Regulations.

Decision:

- The complaint with regard to the multi-campus balloting communication **is sustained** insofar as the finding of the CRO that Mr. McDonald was permitted to perform the administrative task as set out and that a miscommunication occurred. As no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.
- The complaint with regard to Ms. Anderson's preparation of ballots **is sustained** insofar as the finding of the CRO that Ms. Anderson was permitted to perform the administrative task as set out. Since this complaint does not allege any errors in the preparation and as no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.

Communication 22

Summary:

A note (dated 25 February) that candidate statements had not been posted in the polling booths at the Richmond Campus and a request that the C.R.O. post candidate statements as allowed in the regulations at the polling stations. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 22**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- Regulation X 8 7 – Each candidate shall be permitted to submit a candidate statement of no more than 100 words which, if approved by the C.R.O., the C.R.O. will cause to be posted clearly at each polling station.
- Regulation Section X 3 1 (xiv) – C.R.O. is responsible for preparing and distributing information on relevant rules and regulations to poll clerks.
- Regulation Section X 5 4 (ii) (g) – a statement of no more than 100 words may be submitted to the C.R.O. for posting at poll stations and submission to campus publications.
- The regulations allow the C.R.O. to post the candidate statements at the polling stations once they are approved by the C.R.O.
- Candidate statements that had been received were approved on the evening of Thursday 24 February.
- The statements that were approved were sent electronically to each campus on the evening of Thursday 24 February.
- If they weren't posted at Richmond on Friday 25 February, as alleged, then the campus officers failed to perform the task as requested by the C.R.O. The complaint contains a statement of three witnesses who make this allegation. No contradictory evidence has been received.

Decision:

- The complainant has successfully made out his complaint and **the complaint, therefore, is sustained.**
- There is no evidence that the irregularity has materially affected the election.
- As such, no remedy is awarded.

Communication 19

Summary:

A request that all complaints and official responses be posted on-line. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 19**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- Regulation X 6 1 (ii) – The Elections Committee may determine its own procedures ... provided that all complaints are posted publicly and all decisions are also posted publicly.

- No complaint is disclosed by the request.

Decision:

- **The complaint is dismissed.**
- In any case, the practice of the C.R.O. has been to post all complaints and submissions regarding complaints on the Society's website.
- All decisions relating to the communications will also be posted on the website.

Communication 28

Summary:

An allegation that the C.R.O. was gruff, frank, and abrasive with Steve Lee during a telephone conversation concerning the C.R.O.'s late attendance at a meeting in Richmond. The C.R.O. apologized at the time, but the complaint states some concern remains. There is a discussion of resources that should be made available to the C.R.O.

Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 28

Summary of comments received:

The Progressive Party suggests that Steve Lee stop using the complaint process in a frivolous manner.

Analysis:

- The C.R.O. accepts that Steve Lee certainly could have reasonably interpreted the C.R.O.'s tone during the conversation referred to as described.
- The complaint discloses no electoral offence.

Decision:

- Since no electoral offence is alleged by the communication, **the complaint is dismissed.**

Communication 36

Summary:

An allegation that the no-campaigning zone in Richmond was extended into areas that the C.R.O. had indicated would be allowed and that photographs of the Progressive Party candidates were taken inappropriately by R.A.F. and C.S.I. supporters. The following series of possibilities are suggested as to how this extension came about:

- (i) The C.R.O. changed his mind and failed to communicate this to the candidates;
- (ii) The boundary change was made by another member of the "elections committee" involving a deliberate act of campaign sabotage or an overstepping of the C.R.O.'s own authority;
- (iii) The Chief Poll Clerk made the decision as a deliberate act of campaign sabotage or an overstepping of the C.R.O.'s own authority; or
- (iv) Steve Lee extended the boundaries on his own.

Depending on which of the above is found to be correct the request is to discipline the "elections committee", the Chief Poll Clerk, and / or Steve Lee. **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communication 33, 34, and 35 – 36**

Summary of comments received:

Steve Lee said on the first day of campaigning Steve Lee instructed the Richmond BOS to place the tape more than 10 metres away from the polling place on the first floor in Richmond according to what he believed was common practice. Early Friday morning, Pavan Bassi asked the Richmond Campus office to clearly mark off the 10 metre boundary on the 2nd floor apparently based on Pavan Bassi's interpretation of Regulation X 5 4 (iii) (discussed below). This was before Steve Lee heard that the administrative staff had been dismissed. There is a note that the area in question was directly above the polling station.

Analysis:

- Regulation X 5 4 (iii) – Each polling station shall be surrounded by a buffer zone in which no campaigning shall be permitted. The zone is to be 10 metres in all directions from the polling station, or a greater distance as determined by the elections committee in individual cases. Where possible, such buffer zones shall be clearly identified and marked in a visible way by the Elections Committee.
- The C.R.O. did not change his mind concerning the “no-campaigning zone” in Richmond. All candidates who asked were told the same thing – that the 10 metre zone would be interpreted to end at solid walls. All candidates who asked were told that they could not campaign in locations that were within 10 metres of the poll in all directions that could be [easily] seen from the polls.
- The zone was not extended by the C.R.O. so the basic regulation provision applies in this case.
- The evidence available suggests that the zone as marked was not as intended by the C.R.O.
- The C.R.O.'s decision with regard to polling zones was clear. Another directive was followed. The evidence available suggests that Steve Lee alone established the zone on the advice of Pavan Bassi apparently before Steve Lee heard that Pavan Bassi was no longer assisting with the administration of the election.
- The C.R.O.'s intention was to allow campaigning directly above the poll so long as it wasn't in an area easily seen from the polls or so long as noise relating to the campaign wasn't obvious at the poll.
- Regulation X 6 allows the Elections Committee to penalize candidates. No regulation was found that would allow the Elections Committee, or the C.R.O. acting in their absence, to penalize KSA staff for election violations.
- Steve Lee is a candidate for Richmond Director and subject to discipline by the C.R.O. pursuant to the regulations.

Decision:

- Pavan Bassi clearly exceeded his authority in suggesting an area other than that approved by the C.R.O. be marked as the “no campaigning zone”.
- The proper approach would have been for Mr. Bassi to confirm his advice to Steve Lee with the C.R.O. as soon as possible – which was not done.
- The C.R.O. had the power under the Regulations to mark a “no campaigning zone” but did not do so in this case.
- Steve Lee had no authority to extend the buffer zone by marking off a larger area than had been set by the Regulations (X, Article 5 4 (iii)) as a “no campaign

- zone” – regardless of common practice. Mr. Lee was not acting on instructions of C.R.O., but rather it appears he was acting on the misdirection of Mr. Bassi.
- As such, it appears that the act was inadvertent as Mr. Lee was under the misapprehension that he was following a directive that was initiated by the C.R.O.
 - **As such, the complaint is dismissed against Steve Lee.**

Communication 43

Summary:

An allegation that R.A.F. Candidate Shiva Prasad’s name was not placed on the Newton ballot when it should have been. A request for an investigation and re-running the election. Also a notation that the Newton ballot box is missing as mentioned below. A note that time is now less important than the investigation after observing that no complaints or responses have been posted on line to date (24 February 2005). **Signed by Aaron Takhar, Manny Dhaliwal, Mat Huff, and Mariana Nakhla – 43**

Summary of comments received:

The Progressive Party suggests that the name may have been left off the ballot because the candidate was not nominated on time or was determined to be ineligible to run for the office sought. If the candidate’s name should have been on the ballot, only the Newton campus balloting was affected and so only [the Newton portion of the election would need to be re-run].

Note:

A “Withdrawal of Candidate” form has been received purporting to be signed by Shiva Prasad, Aaron Takhar, and Pavan Bassi.

Analysis:

- Bylaw 7 (1) requires that Campus Councils be elected by and from the members enrolled at that campus.
- The C.R.O. was under the impression that the candidate in question was not a Member enrolled at the Newton Campus and so his name was removed from the Newton ballot.
- The “Withdrawal of Candidate” form can be taken as information confirming the C.R.O.’s impression.

Decision:

- The candidate’s name was properly not included on the Newton ballot.
- **The complaint is dismissed in its entirety.**
- The complaint relating to the Newton ballot box is dealt with in the 18 March 2005 decision.

Communication 44

Summary:

An allegation that the “elections committee” overwhelmingly believes that the C.R.O. is not impartial and should be removed. Discussion about the powers of an elections committee. Request that the election be declared invalid. Also states that the C.R.O. had

no right to dissolve the “elections committee”. **Signed by Aaron Takhar, Jaivin Khatri, Mariana Nakhla, and Mat Huff – 44**

Summary of comments:

The Progressive Party points out that there was no Elections Committee in place for this election. They further suggest that it would have been unlikely that Pavan Bassi and Erin Minor would have been approved by council as an “Election Committee”. Therefore their role could only be advisory and the C.R.O. could therefore dismiss the administrative staff at will. There is also a suggestion that the entire election should be reviewed by a third party appointed by Council.

Analysis:

The analysis above concerning the administrative staff and bias replicates the complaints set out in communication 20, 21, 29a, & 34.

Decision:

- Per decisions 20, 21, 29a, & 34, **the complaint is dismissed.**

Section II – Issues concerning the Chief Poll Clerk Issued 29 March 2005

Communication 1

Summary:

Progressive Party objects to appointment of Coreen Mason as Chief Poll Clerk based on her prior relationship with some of the candidates which could result in bias. **No witnesses signed – 1**

Analysis:

- Regulation X 11 2 – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

Decision:

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed in its entirety on basis of lack of jurisdiction**

Communication 35

Summary:

A protest by the Progressive Party against the hiring of Coreen Mason as Chief Poll Clerk. The communication contains a fairly detailed summary of Ms. Mason's involvement with the KSA and some of its officers and employees. Request to remove Ms. Mason as Chief Poll Clerk. Also a request for an investigation into her effect on the impartiality of the elections process. **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communication 33, 34, and 36 – 35**

Summary of comments received:

Coreen Mason made a submission. She disagrees with the details provided in the communication in many respects and she points out that she managed to get the polls staffed in a very short time.

Analysis:

- The position of chief poll clerk was created to assist the C.R.O. with the logistics of organizing and staffing the polling stations. It is a purely administrative position and nothing more. As such, the requirements of the position are governed by the general provisions in the Regulations regarding poll clerks (Regulation X(8)(11)(iii).
- The relevant section of Regulation X (11)(8)(iii) only requires, “while working at a poll station, no poll clerk shall make remarks supporting or opposing any candidate ...” Subsection (iii) also allows the C.R.O. to discipline any poll clerk who violates the electoral regulations.
- This communication does not allege any actionable breach of the Regulations. As such, the C.R.O. is unable to find that any of the allegations, even if substantiated, are a breach of the Regulations.

Decision:

- **The complaint is dismissed in its entirety.**

Communication 41

Summary:

A request from the Progressive Party that the Chief Poll Clerk be terminated on the ground that she was not eligible for employment with the KSA as she had held elected office within six months of her appointment. A notation that the Newton ballot box went missing [under her supervision]. A request that internal discipline procedures be followed for the persons who violated the hiring procedure. **Signed by Jeff Nelson, Matt Vu, and Forrest Li – 41**

Analysis:

- The administration of the KSA Hiring Policy is outside the jurisdiction of the C.R.O.
- Regulation X 3 1 (xv) requires the C.R.O. to assign poll clerks to polls, and ensure that the polls are adequately staffed during the polling period.
- Regulation X 3 1 (xvii) requires the C.R.O. to cause ballot boxes to be distributed to and collected from polling stations.
- The C.R.O. requested that a Chief Poll Clerk be appointed to assist with these tasks.
- The only violation of the election regulations by the Chief Poll Clerk alleged is the observation that the Newton ballot box was not returned [to the C.R.O. by the Chief Poll Clerk (or anyone else) at the conclusion of balloting].
- Regulation X 8 11 (iii) allows the C.R.O. to discipline any poll clerk who violates the electoral regulations.

Decision:

- As decided in communication 35, The Chief Poll Clerk is a “Poll Clerk” for the purposes of the Regulations.
- The complaint relating to the KSA Hiring Procedure is dismissed for lack of jurisdiction.
- The 18 March 2005 Decision found that, indeed, the Newton ballot box was not collected from the [Newton] polling station, which is a violation of the Regulations.
- However, there is no evidence presented that would suggest that the Chief Poll Clerk had any direct involvement in the Newton incident and, therefore, no evidence that she was the cause of the breach,
- Therefore, the **complaint is dismissed in its entirety.**

Section III

Candidate Eligibility Issues

Issued 29 March 2005

Communication 7

Summary:

Request from Aaron Takhar, campaign manager for the R.A.F. Party, for a meeting with the “elections committee” regarding the eligibility of certain R.A.F. candidates for election. There is also a suggestion that candidates’ names could be “shuffled” before polling began. **No witness signed – email communication – 7**

Summary of comments received:

The Progressive Party asserts that the R.A.F. Party was told at the all-candidates meeting that no candidate could run on a campus at which the candidate was not actively taking classes. The Progressive Party also asserts that this complaint is an attempt to create an appearance of impropriety and to push the Society into holding a new election. The Progressive Party asks for a “severe” reprimand against the students who ran in violation of the rule and against the R.A.F. Party itself.

Analysis:

- Regulation X 11 2 – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

Decision:

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed in its entirety on basis of lack of jurisdiction**

Communication 8

Summary:

An objection to Jamsheed Khan running as a candidate for Newton Campus Director based on an allegation that he is not a student at the Newton Campus. **Signed by Ken McIntyre, Arka Movsessian, and Kailee Bruce – 8**

Summary of comments received:

No comments were received.

Note:

A withdrawal of candidate form signed by Jamsheed Khan, Aaron Takhar, and Pavan Bassi is on file.

Analysis:

See the review of Bylaw 7 (1) in Section I, communication 43 above.

Decision:

- Per decision 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.

- Since this candidate has withdrawn, no further investigation is required and his name will not be placed on the revised Newton ballot.
- **The complaint is dismissed in its entirety.**

Communication 10

Summary:

An allegation that various members of the R.A.F. Party were nominated for positions different from the positions submitted by their campaign manager to the C.R.O. **Signed by Jeff Nelson, Kyle Sanker, and an unknown witness – 10**

Summary of comments received:

The R.A.F. Party filed a submission. The R.A.F. Party challenges the signers to prove their claim.

Analysis:

- Regulation X 5 2 (iii) – Each candidate shall be a Member of the Society, and shall submit in person to the C.R.O. a nomination form duly signed by the candidate and no less than 25 nominators...
- Regulation X 5 2 (iv) – Even if nominated for more than one position, a candidate may run for only one position in a given election.
- The C.R.O. consistently told potential candidates that nomination forms could not be altered to change the position for which the candidate was nominated.
- The C.R.O.'s interpretation is supported by the regulations – the combination of X 5 2 (iii) and (iv) suggest that the position sought is relevant to the nomination process.
- As such, candidates must run for the position, and only the position, for which they have been nominated.
- The complaint is serious; however, despite the serious nature of the allegations, the complainants neither (i) name the “various students” referred to in the complaint, nor (iii) do they identify the candidates who have allegedly breached the Regulations.
- None of the “students” allegedly lied to have provided submissions substantiating the allegations.
- The R.A.F. Party’s blanket denial is uncontradicted.
- As such, no evidence of a breach of the nominations process Regulations is found.

Decision:

- **The complaint is dismissed in its entirety.**
- This finding does not affect the right and duty of the CRO to finally determine eligibility of candidates.

Communication 15

Summary:

A request that the C.R.O. review the eligibility of the following candidates for Newton Campus positions on the ground that they are not eligible to hold the offices which they are seeking. Reference is made to communication 8 above. **Signed by Ken McIntyre, Ashveen Koonja, and Kristina Kearley – 15**

- Sabrina Dhami
- Sat Dhillon
- Narinder Atwal

Note:

A Withdrawal of Candidate form signed by Narinder Atwal, Aaron Takhar, and Pavan Bassi is on file.

Summary of comments received:

No comments were received.

Analysis:

The review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility – is repeated.

- Sabrina Dhami appears on the list of candidates for a Langley Representative position.
- Sat Dhillon also appears on the list of candidates for a Langley Representative position.
- Narinder Atwal appears on the list of candidates for a Newton Campus Officer Position.

Decision:

- As stated under Communication 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.
- Since Narinder Atwal has withdrawn, no further investigation is required and his name will not be placed on the revised Newton ballot. As such, the **complaint is dismissed with regard to Mr. Atwal.**
- The CRO is investigating the student status of Sabrina Dhami and Sat Dhillon.

Communication 16**Summary:**

An allegation that Aaron Takhar had misled potential candidates for the R.A.F. Party about their eligibility to run for certain campus specific positions. Request for a review of the eligibility of R.A.F. Party candidates running for campus specific positions outside the Surrey Campus. **Signed by Ken McIntyre, Steve Lee, Kristina Kearley, and Ashveen Koonja – 16**

Summary of comments received:

No comments were received.

Analysis:

See review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility.

- Ultimately candidates are responsible to inform themselves of the rules regarding the election. Candidates taking advice from their campaign managers do so at their own peril. Reliance on inaccurate or incorrect advice of a campaign manager or, for that matter, anyone else, will not operate as a defence for an election violation.

Decision:

- The allegations with regard to Mr. Thakhar do not disclose a breach of the election Regulations. **The complaint is dismissed with regard to Mr. Thakhar.**
- As stated under Communications 8, 15 above, per decision 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.
- The eligibility of all candidates for campus specific positions will be investigated and candidates not meeting the test above will be disqualified on the ground that they are ineligible for the position sought.

Communication 33**Summary:**

An allegation that the R.A.F. Party was using candidates that were ineligible for the positions they were seeking to enhance the R.A.F. campaign. The allegation also says that the candidates in question were told that the bylaws and word of the C.R.O. did not apply to them. The allegation is further that the R.A.F. coordinators and executive candidates were responsible for these communications. The Progressive Party considers this a systematic violation and requests that all R.A.F. Party candidates be disqualified.

Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – together with communications 34, 35, and 36 – 33

Summary of comments:

The R.A.F. Party submitted that the R.A.F. Party has not broken any regulations or bylaws and invites the “elections committee” to investigate.

Analysis:

See review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility.

- Without an analysis of the Regulations and whether the complaint discloses a breach thereof, the C.R.O. observes that:
 - The complainant alleges that the R.A.F. campus specific candidates were told that the bylaws and word of the C.R.O. did not apply to them. There is no evidence presented that candidates were systemically misinformed. The R.A.F. Party has directly denied this allegation; and
 - the complainant alleges that the R.A.F. coordinators and executive candidates were responsible for these miscommunications. Again, there is no evidence presented that candidates were systemically misinformed or the identity of those who allegedly misinformed the candidates. The R.A.F. Party has directly denied this allegation.

Decision:

- The Progressive Party alleges systematic violations, but no evidence of a grand conspiracy of the nature set out in the complaint has been provided. The bald allegations set out are not substantiated with any clear or cogent evidence whatsoever. **The C.R.O. is unable to sustain the complaint. The complaint is dismissed in its entirety.**

- As stated in several decisions above, candidates who were not nominated for specific positions or who were not eligible according to the Society's bylaws will be disqualified.

Communication Item B

Summary:

A document has come to the C.R.O's attention that purports to have been created by Aaron Takhar on behalf of the R.A.F. Party. It contains a mix of campaign advice and misinformation regarding nominations among other things. **Campaign Document**

Apparently Circulated by the R.A.F. Party – Item B

Summary of comments:

No comments were received.

Analysis:

- The C.R.O. can investigate allegations of irregularities that come to his actual attention.
- The issues raised by this communication are dealt with in other communications above.
- The creation, existence, and circulation of the document is not, in itself, a violation of any election Regulation.

Decision:

- **The complaint is dismissed in its entirety.**

Section IV

Inappropriate campaigning before the campaign period

Issued 29 March 2005

Communication 2a

Summary:

R.A.F. Party alleges that Kristina Kearley was campaigning prior to the campaign period. Also alleges that Ms. Kearley unfairly criticized the R.A.F. Party; **No witnesses signed – 6 email signatures – 2a**

Summary of Comments received from the Progressive Party:

The Progressive Party suggests that the conversation referred to in the communication was initiated by the students Ms. Kearley was speaking with. Further that Ms. Kearley was responding to questions about the dismissal of certain former members of Council. They further suggest that it would be unreasonable for potential candidates to ask students to sign a nomination package without being able to say something about what they intend to do [if elected].

Analysis:

- Regulation X(11)(2) requires that complaints of irregularities be signed by at least three members who personally witnessed or were otherwise privy to the incident.
- The Oxford Dictionary of Current English defines the verb “to sign” as “write one’s name on (document) to show its authenticity or one’s agreement or acceptance.”
- An email signature may evince a signature, in the meaning of the above definition, if the email originates from the signer’s email address. However, where an email lists a number of witnesses, there is no evidence that the email was “signed” by the other witnesses in that there is no evidence as to the “authenticity” of the signer’s “agreement or acceptance” of the communication.

Decision:

- The complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety.**

Communication 3

Summary:

Allegation that Kristina Kearley was openly campaigning prior to the campaign period. Also alleges that Ms. Kearley slandered the R.A.F. Party. **Signed by Madiha Butt, Amar Sandhu, Jaivin Khatri, and Rolie Prasad – 3**

Summary of Comments received:

The Progressive Party points out that the complainant, Madiha Butt, became a Progressive Party Candidate in the election.

Analysis:

- Regulation X 5 4 (i) – The official campaign period begins immediately after the conclusion of the All-Candidates Meeting and continues until the end of voting. Campaigning is not permitted at any other time.

- Regulation X 5 2 (iii) – Each candidate shall submit in person to the C.R.O. a nomination form duly signed by the candidate and no less than 25 members of the Society.
- Regulation X 5 3 (i) – The C.R.O. shall organize an all-candidates meeting following the close of nominations.

Decision:

- The Regulations allow for communication between potential candidates and students for the purpose of obtaining nominations.
- The complaint clearly sets out that Mr. Kearley was in the process of collecting nomination signatures when the remarks were made. The remarks were likely made for the purpose of obtaining nomination signatures, therefore, does not disclose a breach of the Regulations.
- The fact that one of the complainants ran for office with the Progressive Party along with Ms. Kearley is irrelevant, although, it certainly is odd that running mates submit complaints about each other's conduct.
- The C.R.O. has no jurisdiction over complaints of slander.
- **The complaint is dismissed in its entirety.**

Section V

Using KSA facilities and events inappropriately

Issued 29 March 2005

Communication 2b

Summary:

R.A.F. Party alleges that Rigel Vincent used his MSN Messenger identification as a campaign tool prior to the campaign period. A printout of the identification is included; No **witnesses signed – 6 email signatures – 2b**

Summary of comments received:

The Progressive Party submitted that Mr. Vincent's MSN Messenger name was only promoting the election itself. Also the MSN screen name is not [public].

Analysis:

- Per decision 2a.

Decision:

- Per decision 2a, the complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety**.
- However, the C.R.O. notes, even if he had jurisdiction, candidates are, of course, free to email their known supporters and voters who contact them for information.

Communication 2c

Summary:

R.A.F. Party alleges that Jeff Nelson used the KSA offices for campaign meetings [prior to and during the campaign period]; No **witnesses signed – 6 email signatures – 2c**

Summary of comments:

The Progressive Party denies holding any election meetings in KSA offices. They point out that several members are incumbents and do need to work together in the office.

Analysis:

- Per decision 2a.

Decision:

- Per decision 2a, the complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety**.

Communication 14

Summary:

An allegation that R.A.F. Party supporters were wearing R.A.F. Party T-shirts one metre inside of the Surrey KSA Office while asking about the availability of fitness centre passes. The people in question left when asked. **Signed by Ken McIntyre, Matt Vu, and Philip Sun – 14**

Summary of comments:

No comments were received.

Analysis:

- Regulation X 5 5 (i) – Candidates are not to use the resources of the Society for campaigning. This prohibition does not apply to materials and resources available to Society members generally, such as free phones.
- Regulation X 5 5 (ii) – Candidates shall not use the Society’s offices for any purpose related to the election.
- Regulation X 6 11 – Slates, as a whole, are responsible for the electoral conduct of their members.
- The C.R.O. has stated that campaign materials, including campaign T-shirts, were not allowed in KSA offices pursuant to these regulations.
- There is no evidence that the breach committed by the unknown R.A.F. Party supporters was sanctioned by the R.A.F. slate. However, the consequence of allowing others to campaign on behalf of one’s slate is that the slate must take responsibility for the campaigners’ actions. Unless there is clear evidence that the campaigners’ were not working on behalf of the slate, it must be presumed that they were R.A.F. sanctioned campaigners.

Decision:

- The C.R.O. finds that the campaigners were working on behalf of the R.A.F Party.
- The C.R.O. finds that a technical offence under the election regulations occurred.
- Since the R.A.F. candidates chose to campaign as a slate, the C.R.O. finds that the slate is in violation.
- **The complaint is sustained against the R.A.F. Party slate.**
- However, mitigating the offence is the fact that the campaigners, as noted in the complaint, left immediately when asked. Furthermore, the infraction was likely inadvertent.
- The offence is characterized as minor.
- The remedy is a warning against the R.A.F. Party not to allow its supporters to enter KSA offices while wearing campaign T-shirts.

Communication 25***Summary:***

An allegation that the Progressive Party was distributing campaign materials and otherwise campaigning at a KSA BBQ event in Richmond on 23 February which may violate rules against using KSA materials, offices, etc. in campaigns and which may be contrary to practice in previous elections. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 25**

Summary of comments received:

The Progressive Party basically denies that they campaigned at the event in question. They further state that the complainants were also effectively campaigning during the event by handing out food to students even if they didn’t have party / candidate identification on at the time. They also state that the C.R.O. did not warn them against attending the event.

Analysis:

The review of Regulations regarding the use of KSA resources and offices under communication 14 above is repeated.

- The C.R.O. told Steve Lee in Richmond that campaigning would be allowed in KSA lounges but not using KSA equipment and facilities.

Decision:

- The BBQ event is not captured by the rule against campaigning with the use of KSA resources and offices. In fact, the BBQ is a perfectly legitimate venue for campaigning.
- The complaint does not disclose an offence.
- **The complaint is dismissed in its entirety.**

Communication 26

Summary:

A communication suggesting that the C.R.O. should not have asked Steve Lee – or other candidates – to stop working on campaign materials in the KSA lounges as they are not covered by regulations preventing candidates from using KSA facilities and offices for campaign purposes. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 26**

Summary of comments received:

The Progressive Party states that they agree with the C.R.O.’s decision to make the Richmond lounge space “off limits”. They believe that Steve Lee working in the Richmond lounge had a material effect on the election because constituents would have been able to see elected officials crowded around a computer in the lounge.

Analysis:

The review of Regulations regarding the use of KSA resources and offices under communications 14 and 25 above is repeated.

- The C.R.O. told Mr. Lee not to work on campaign materials in the lounge as the C.R.O. thought, given Mr. Lee’s in depth involvement with the KSA, that Mr. Lee’s preparation of campaign materials in the lounge might cause a perception to others that he was using KSA materials or resources in his campaign.
- The C.R.O. believed that it would be best practice for a candidate not to work on campaign materials in the lounge.
- The C.R.O. indicated to Mr. Lee that contacting voters in the lounge would be acceptable provided it did not unduly interrupt the Members’ enjoyment of the lounge.

Decision:

- The C.R.O. was within his power to administer the election. The C.R.O. in no way prevented Mr. Lee from campaigning in an area in which campaigning was permitted.
- Even if the C.R.O. is incorrect and there was an irregularity, no material impact on the election is proven.
- **The complaint is dismissed in its entirety.**

Communication 45***Summary:***

An allegation that Matt Vu asked Members and KSA staff, including R.A.F. Party members, to sign his nomination form in the KSA office and that [Jeff] Nelson used the KSA offices for “party meetings”. A request that the “elections committee” and the ombudsperson investigate and hold the results of the election invalid. **Signed by Mat Huff, Aaron Takhar, Jaivin Khatri, and Manny Dhaliwal – 45**

Summary of comments received:

The Progressive Party suggests that collecting signatures on nomination forms is not material to the election and that it is not campaigning within the meaning of the Regulations.

Analysis:

The review of Regulations regarding the use of KSA resources and offices under communications 14, 25, and 26 above is repeated.

The review of Regulations regarding the campaign period under section IV communication 3 is repeated.

Decision:

- Until properly nominated, Members are not candidates.
- There is no indication that the activity described in the complaint took place after the close of nominations.
- In any case, the activity mentioned in the complaint was not material to the election.
- **The complaint is dismissed in its entirety.**

Section VI
Campaign material issues
Issued 31 March 2005

Communications 9 & 11(b) [identical complaints]

Summary:

An allegation that certain materials distributed by the R.A.F. Party and approved by the C.R.O slandered Mr. Nelson. Request for the C.R.O. to revisit his decision and remove the material from the campus. [This was done along with requiring the Progressive Party to revise some of its materials]. **Signed by Jeff Nelson, Kyle Sanker, and an unknown [illegible] witness – 9 & 11(b).**

Analysis:

- On hearing Mr. Nelson’s verbal complaint during the election, the C.R.O. decided to alter his initial decision regarding the materials in question and disallowed those materials. As such, the complaint is moot as the CRO has already revisited his initial decision.

Decision:

- **The complaint is dismissed in its entirety.**

Communication 11

Summary:

A request from the R.A.F. Party that the “elections committee” review certain Progressive Party campaign materials that had been approved by the C.R.O. The communication was sent by email to the C.R.O, Erin Minor, and Pavan Bassi. The complainant also provided a paper copy of the relevant campaign material. **No witnesses signed – email communication – 11**

Summary of comments received:

The Progressive Party points out that the materials in question were approved by the C.R.O. and withdrawn as soon as approval was withdrawn. They request that the complaint be dismissed.

Analysis:

- Per regulation X 11 2 – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.
- This communication was not signed by three witnesses, therefore, the C.R.O. is without jurisdiction to consider the communication.

Decision:

- **Complaint is dismissed in its entirety for lack of jurisdiction.**

Communication 4

Summary:

R.A.F. Party alleges that Matt Vu and Jeff Nelson were wearing their unapproved T-shirts in the hall immediately after the all-candidates’ meeting and that they appeared in

the room where the meeting was held immediately after the meeting was concluded wearing the shirts and asked for the C.R.O to approve the shirts – which was done. **No witnesses signed** – 4

Summary of Comments received:

The Progressive Party points out that the C.R.O. has already addressed the matter by issuing a verbal warning.

Analysis:

- As discussed in Section II, communication 1 & 11– Regulation X 11 2 states that complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

Decision:

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed in its entirety for lack of jurisdiction**

Communication 5

Summary:

R.A.F. requested that the C.R.O. approve a bunny costume for use in their campaign. The request was refused at the all-candidates’ meeting and reviewed in a meeting between Erin Minor, Pavan Bassi, and the C.R.O. The request was again refused. **No written request / complaint – note in file received from Erin Minor** – 5

Analysis:

- As discussed in Section II, communication 1 and other decisions – Regulation X 11 2 states that complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

Decision:

- **Complaint is dismissed in its entirety for lack of jurisdiction**

Communication 27

Summary:

An allegation that the Progressive Party continued to use leaflets after they were banned by the C.R.O. Also an allegation that the Progressive Party left approved campaign materials in the [Richmond] Bookstore – contrary to University College policy. **Signed by Steve Lee, Johnny Woo, and Marc Ponce** – 27

Summary of Comments received:

The Progressive Party suggests that the banned leaflets could have been simply left over from a distribution prior to the ban. They also state that Kristina Kearley asked bookstore staff for permission to place the leaflets in the bookstore and was given permission – possibly due to employee error. There is a suggestion that there were other campaign materials not belonging to the Progressive Party in the bookstore at the time.

Analysis:

- The C.R.O. banned the continued distribution of the initial leaflets.

- Regulation X 5 4 (ii) a – All postering must comply with the University College and KSA postering procedures and policy.
- Regulation X 5 4 (ii) c – Leaflets may be distributed without restrictions unless they are affixed to bulletin boards.
- No other restrictions on leafleting have been found.
- Most campaigning is, of necessity, done in KUC controlled space such as cafeterias and lounges.

Decision:

- The complaint does not establish that the materials in question were the “banned materials.” Secondly, the complaint does not establish that the materials were being actively “distributed” after any ban was communicated by the C.R.O. The Progressive Party’s submission that the prior materials were merely left on campus after the ban is wholly plausible.
- **The complaint regarding the materials is dismissed.**
- There is no KSA rule prohibiting the use of KUC facilities for campaigning other than the Regulation regarding postering. The existence of a KUC rule is neither relevant nor determined.
- **The complaint concerning the bookstore is dismissed and, therefore, the complaint is dismissed in its entirety.**

Communication 46

Summary:

An allegation that Rigel Vincent and Tristan Thompson of the Progressive Party used unapproved campaign materials – a bagpipe – on the Langley campus between 1 and 2PM on 23 February. A further allegation that this would be using national origin in the campaign, contrary to regulation section X 5 4 (v) which has a specified penalty of disqualification. **Signed by Raju Dhami, Kiran Cheema, Sabrina Dhami, and Joey Atwal – 46**

Summary of Comments received:

The Progressive Party essentially says that they didn’t consider bagpipes an ethnic instrument and that they were not aware of any ban on bagpipes by the C.R.O. They point out that they complied with the C.R.O.’s directive banning music as soon as they heard about the ban.

Analysis:

- As decided as a result of the review of regulations regarding the review of campaign materials in communication 9, the C.R.O. can, in this election, approve materials and alter decisions concerning materials on further reflection and review.
- Regulation X 5 4 (ii) k – The Elections Committee can approve forms of campaigning other than those listed before the beginning of the Official Campaign Period.
- Music is not a listed approved form of campaigning
- The C.R.O. had ruled that the R.A.F. Party could use music of low volume as part of their campaign.

- As soon as the C.R.O. heard about the bagpipes, all music was banned from the campaign entirely.
- The use of the bagpipes stopped as soon as asked.
- Regulations X 5 4 (v) and X 5 8 (i) prohibit the use of, among other things, national origin in campaigning. The prescribed penalty is disqualification under both regulations.
- There is no indication that national origin was invoked in the campaign by the use a bagpipe itself.

Decision:

- The use of music was not specifically allowed.
- The Progressive Party, of which Rigel Vincent and Tristan Thompson are members, admits in its submission to the use of the bagpipe. As such, **the complaint is sustained relating to the use of music in the campaign.**
- The violation is found to be minor because the “music” was not extensively used, the behaviour ceased immediately on request, and the breach had no material effect on the election.
- Rigel Vincent and Tristan Thompson are warned not to use unapproved materials in their campaign.
- The use of a bagpipe is not in itself using national origin in campaigning.
- **The complaint concerning the use of national origin in campaigning is dismissed.**

Section VII

Allegations of inappropriate campaign activities

Issued 31 March 2005

Communication 2d

Summary:

R.A.F. Party alleges that Jeff Nelson used means similar to extortion, intimidation, lies, and deception to convince voters not to vote for R.A.F. **No witnesses signed – 6 email signatures – 2d**

Summary of comments received:

The Progressive Party cites their right to speak freely to Members – including members of the R.A.F. Party. They further suggest that this communication is intended to draw attention away from potential offences by the R.A.F. Party.

Analysis:

- As discussed in Section IV, communication 2a Regulation X(11)(2) requires that complaints of irregularities be signed by at least three members who personally witnessed or were otherwise privy to the incident.
- The Oxford Dictionary of Current English defines the verb “to sign” as “write one’s name on (document) to show its authenticity or one’s agreement or acceptance.”
- An email signature may evince a signature, in the meaning of the above definition, if the email originates from the signer’s email address. However, where an email lists a number of witnesses, there is no evidence that the email was “signed” by the other witnesses in that there is no evidence as to the “authenticity” of the signer’s “agreement or acceptance” of the communication.

Decision:

- The complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed for lack of jurisdiction.**

Communication 42

Summary:

R.A.F. Party alleges that Jeff Nelson of the Progressive Party approached candidate Jamsheed Khan and asked him to withdraw the R.A.F Party candidate for Director of Operations in return for Mr. Nelson not attempting to disqualify the R.A.F. Party candidate for Newton Director on unspecified grounds. A request for faster responses to election complaints. A request that Mr. Nelson be disciplined and disqualified. **Signed by Jamsheed Khan, Jaivin Khatri, Mat Huff, and Aaron Takhar – 42**

Summary of Comments:

Essentially the Progressive Party apologizes to Mr. Khan if he felt threatened and that it was not Mr. Nelson’s intention to threaten Mr. Khan. Mr. Nelson states further that he only pointed to Mr. Khan that he might consider withdrawing honourably as he was, in fact, not eligible for the office he was seeking.

Note: A withdrawal of Candidate Form signed by Jamsheed Khan, Aaron Takhar, and Pavan Bassi is on file.

Analysis:

- The C.R.O. accepts that Mr. Khan and Mr. Nelson had a conversation relating to Mr. Khan's eligibility.
- The C.R.O. accepts that Mr. Nelson indicated to Mr. Khan that he was not eligible.
- It appears that the complainant may have misunderstood Mr. Nelson's comments to him or that Mr. Nelson was unclear in expressing himself.

Decision:

- The evidence is not sufficient to maintain the very serious allegations made by the complainants. **The complaint is dismissed in its entirety.**

Communication 6***Summary:***

The Progressive Party requested that the C.R.O. investigate the destruction of campaign posters that were alleged to be posted on the 3rd floor of building D at the Surrey Campus. Evidence of torn posters and photographs mentioned. This appears to be related to communication number 31 below. **No witnesses signed – 6**

Summary of comments received:

Comments from R.A.F. have been received that are titled "R.A.F. Response to Complaint #6? (as stated online at yourksa.ca)" but which appear to be unrelated to this communication.

Analysis:

- Regulation X 11 2 (As discussed in Section II, Communication 1) – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.
- Similar issues are raised in communication 31.

Decision:

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed for of lack of jurisdiction**

Communication 31***Summary:***

An allegation that an R.A.F. supporter removed Progressive Party posters from the bulletin board on the 3rd floor of the D building on the Surrey Campus. Photographic evidence is provided. Remains of a poster were found in the garbage in the area. Request that the R.A.F. Party be disqualified. **Signed by Jeff Nelson, Matt Vu, and Marlene Aguasin – 31**

Summary of comments received:

The R.A.F. Party points out that the picture is not very clear. The R.A.F. Party also suggests that it would have been appropriate to tell the person seen that they had been captured on camera. There are several alternatives suggested of what may be represented in the pictures. In an interview with the C.R.O. Aaron Takhar agreed that the person in the photograph is likely wearing a R.A.F Party T-shirt but that he did not recognize the

person in the photo. He also pointed out that the picture could show something other than removing a poster.

Analysis:

- Regulation X 6 11 – Slates, as a whole, are responsible for the electoral conduct of their members. If a candidate, who is also a member of a slate, is found to have committed an offence the Elections Committee may penalize any or all members of the slate in addition to the specific candidate who committed the offence. In particular, if the entire slate has received a material advantage in the election from the actions of one or more members of the slate, the entire slate may be penalized.
- The picture is not clear. Particularly, it is not clear that the person in the photograph is a candidate for the R.A.F. Party or any other group.
- Close examination of the picture finds that the person at the bulletin board is wearing a T-shirt of the same colour and basic design approved by the C.R.O. for use by the R.A.F. Party. Lettering on the back is not clear but certainly could spell out “Reduce All Fees Party”. This has been confirmed by Aaron Takhar.
- The C.R.O. has found a location in Building D on the Surrey Campus that certainly fits the photographic evidence.
- The remains of a Progressive Party poster were found in the area.
- The R.A.F. Party does not deny that one of their supporters may have taken down the poster.
- There is no evidence that ripping down posters was encouraged by the R.A.F. Party.
- There is no suggestion that the Progressive Party was unable to re-post on the bulletin board in question or that the activity complained of continued.

Decision:

- The C.R.O. finds that interfering with other candidates’ posters and legitimate campaign activities is inappropriate campaigning. The campaign activities Regulations [X(5)(4)] do not permit candidates to tear down each others posters as a form of campaigning. This is an activity that must be discouraged.
- The C.R.O. finds that at least one Progressive Party poster was torn down from the location in question on the date and time alleged.
- The C.R.O. finds that it is more likely than not that a supporter or member of the R.A.F. Party removed a poster from the bulletin board in question in Building D on the Surrey Campus without authorization.
- **The complaint is sustained in so far as it establishes that a R.A.F. supporter or candidate removed another candidate’s poster.**
- The C.R.O. cannot, given the information available, find that a R.A.F. candidate committed the offence; however, it is clear that the offence was committed by an individual in support of the R.A.F. Party.
- There was no material advantage obtained in this case due to its early discovery.
- There is no evidence that the activity continued.
- **The R.A.F. Party is warned in the strongest terms that this type of activity will not be tolerated and that the R.A.F. Party must take steps to ensure that its members and supporters do not engage in this type of activity. A repeat**

by either supporters or R.A.F. candidates will result in a more severe penalty. In other circumstances, harsher penalties may be appropriate for this offence.

Communication 13

Summary:

An allegation that Jeff Nelson aggressively confronted the C.R.O. in the KSA Fishbowl Lounge using abusive language – perhaps in an attempt to intimidate the C.R.O. **No witnesses signed** – 13

Summary of Comments received:

The Progressive Party points out that this is an anonymous communication. They also suggest that it might be an attempt to defame Jeff Nelson. They further point out that the C.R.O. reports to council through the General Manager and that Council has limited powers during an election campaign.

The R.A.F. Party submitted comments thanking the student who submitted the communication for showing common sense.

Analysis:

- Pursuant to the Regulations cited above in communication 6 and elsewhere, this is not an official complaint.

Decision:

- **The complaint is dismissed for lack of jurisdiction.**

Communication 24

Summary:

An allegation that the Progressive Party was campaigning within the 10 metre no-campaigning zone set out in the regulations. Also an allegation that the C.R.O. allowed this to continue despite contrary advice from the “elections committee”. Video tape and photographic evidence is alleged to exist. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja** – 24

Summary of Comments received:

The Progressive Party asks that the photographic evidence be reviewed if it is available. They disagree with Mr. Lee’s interpretation that the no campaign zone means that candidates shouldn’t be seen from the polls. They note that the C.R.O. gave his permission to campaign in the area in question and that they stopped when told that permission had been withdrawn.

Analysis:

This communication raises issues relating to the Richmond “no campaigning zone” that have already been reviewed in Section I Communication 36 above where it was established that the C.R.O. did not alter the general 10 metre rule contained in Regulation X 5 4 (iii).

- The C.R.O. never withdrew permission to campaign in any area for which permission had been granted.
- Any candidate who asked was given the same information concerning the no-campaigning zone in Richmond – that it was 10 metres and ended at solid walls.

This specifically included allowing campaigning directly above the polling station provided that the activity wasn't easily visible from the poll and that it wasn't disruptive.

- No evidence is has been provided that the activity complained of was in violation of any decision of the C.R.O.

Decision:

- **The complaint is dismissed in its entirety.**

Communication 29b

Summary:

An allegation that R.A.F. Party volunteers were harassing Marlene Aguasin of the Progressive Party while she was campaigning in an area of the Richmond Campus allowed by the C.R.O. by photographing her repeatedly. Also a suggestion that Progressive Party candidates may have been provoked into standing too close to the rail by the excessive photography. **Signed by Sammy Chau, Forrest Li, and Kristina Kearley – 29b**

Summary of Comments Received:

No comments were received although the comments received from the R.A.F. Party concerning complaint 6 appear to in fact refer to this complaint [the label "b" on the document may appear to be a "6" in the online posting]. The comments in question are mainly a sarcastic apology to people who were campaigning in a no-campaign zone. The communication does admit that the R.A.F. Party was photographing and videotaping the members of the Progressive Party as they campaigned. They state that they should have turned the flash off first.

Aaron Takhar, in an interview with the C.R.O. admitted to taking pictures of the area in question but suggested that the photography shouldn't have been seen as being overly intrusive. The photographs viewed by the C.R.O. do not show any candidate violating any Regulations.

Analysis:

- As stated above in communication 24, it is not established that the complainants were campaigning in a no-campaign zone.
- The rules setting out permissible campaigning activities are clearly set out in X(5)(4) of the Regulations. Harassing and interfering with other candidates' campaigning efforts is clearly not a permissible activity.
- Members of the R.A.F. Party admit engaging in the activity alleged.
- The R.A.F. Party, despite filing a submission in regard to this matter, do not deny any of the allegations made by complainants. In fact, the R.A.F. Party go so far as to apologize for its behaviour.
- The C.R.O. finds that the photography was conducted in a manner that went beyond merely recording what the R.A.F. Party perceived as election infractions. Rather, the photography (with flash) was conducted in a manner designed to interfere with another candidate's campaign.
- The CRO further finds that the photography activity was an attempt to further the slate's own campaign efforts by interfering and diluting the campaign efforts of opponents in breach of Article X(5)(4).

- No request for a clarification of the no-campaign zone in Richmond was received from anyone representing the R.A.F. Party during the campaign period.
- The photography and videotaping did not actually prevent the Progressive Party from campaigning.
- As discussed above in Communication 31, an entire slate can be penalized for the actions of its members.
- Regulation X(6)(7) – allows the election committee to withhold all or part of a candidate's reimbursement for campaign expenses.

Decision:

- Photography can be a useful tool in helping to determine facts but its excessive use can undermine the ability of the subjects to campaign freely. This undermining was a purposeful attempt to further the RAF's campaign.
- **The complaint is sustained.**
- There is no evidence that the activity is likely to have any material impact on the election.
- The RAF did issue an apology; however, the CRO questions the sincerity of the remorse.
- **In addition to being warned in the strongest terms not to continue with this activity, the R.A.F. Party will have all campaign reimbursement to which its members may otherwise be entitled to withheld. Any further violation may result in disqualification.**

Communication 30

Summary:

An allegation that C.S.I. and R.A.F. Party materials were left within the no-campaigning zone at the Richmond Campus and that Aaron Takhar and Steve Lee were seen in the area and should have noticed the materials and that they did not remove the materials. The Progressive Party asked the poll clerks to remove the materials – which they did.

Signed by Forrest Li, Sammy Chau, and Kristina Kearley – 30

No Comments were received

Analysis:

- Regulation X 8 11 (v) – Requires poll clerks to keep polling stations clean and free of campaign materials among other things.
- There is no allegation that the C.S.I. Party or the R.A.F. Party placed the materials in question at the polling station. As such, the allegation is that candidates did not remove the materials. This duty, in fact, is to be carried out by poll clerks.
- It is altogether possible that materials were left by voters in polling areas. Poll clerks did their best to ensure these materials were removed in a reasonable and timely manner. The CRO observed that materials in question were removed by the poll clerks on request.

Decision:

- The poll clerks performed their obligations under Regulation X(8)(11). No election offence is established.
- **The complaint is dismissed in its entirety.**

Communication 37

Summary:

An allegation that an R.A.F. Party leaflet was found in the Richmond polling booth for an undetermined amount of time. The poll clerk removed the material on request.

Photographic evidence exists. Request that the election be re-run. **Signed by Steve Lee, Arka Movsessian, and Lisa Coan - 37**

No comments have been received.

Analysis:

As discussed in communication 30 above, the poll clerks are responsible for clearing campaign materials from the polling stations.

- The complainant acknowledges that the poll clerk removed the material on request.

Decision:

- The CRO finds that the poll clerk upheld her duty.
- **The complaint is dismissed in its entirety.**

Communication 18

Summary:

An allegation by the R.A.F. Party that the Progressive Party deliberately encouraged Madiha Butt and Harpreet Ghuman to deceive the R.A.F. Party into believing that Butt and Ghuman were planning on running for office on the R.A.F. slate when in fact they were planning on running with Progressive. This, it is alleged, created a disadvantage to the R.A.F. Party because R.A.F. wouldn't have candidates seeking as many positions as they were originally planning on running. **Signed by Mariana Nakhla, Jaivin Khatri, Jamsheed Khan, Aaron Takhar, and Joey Atwal – 18**

Summary of comments received:

The Progressive Party comments that individual students can decide who they wish to run with in an election.

Analysis:

- Regulation X 2 (iii) – requires that candidates be Members of the Society and submit a nomination form signed by 25 Members.
- There is no allegation that the nomination forms submitted by Madiha Butt and / or Harpreet Ghuman were not valid.

Decision:

- The complainant has failed to point to any breach of any regulation. The CRO was unable to locate any Regulation regarding pre-nomination and pre-campaign conduct.
- No election offence is alleged.
- **The complaint is dismissed in its entirety.**

Section VIII
Slate registration issues
Issued 31 March 2005

Communication 12a

Summary:

An allegation that the R.A.F Party and the Progressive Party had not registered their slates as required by KSA Regulation X 5 4 (vii) – either in time or by 4 PM on 22 February as the C.R.O. had requested. Also an allegation that the current Director of Operations should have better maintained the Society’s website. Request that only the R.A.F. Party be granted a time extension on the ground that they didn’t know about the regulation but that the Progressive Party should have known. Request that members of the Progressive slate not be allowed to use their slate designation in campaigning.

Signed by Steve Lee, Cassandra Dieudonne, and Kayce Hopwood – 12a

Summary of comments received:

The Progressive Party asserts that the status of the required registration form was not clear, that they complied as best they could with directives that they had confirmed as coming from the C.R.O. They further note that the form does not affect the number of votes a party receives and that the complaint is immaterial.

Analysis:

- Regulation X 5 4 (vii) – requires slates to register prior to the all-candidates meeting. The registration must include a complete list of the candidates running on the slate, the candidate signatures agreeing that they are officially on the slate, and the designation of one slate member as the official contact and spokesperson for the slate. Failure to abide by this rule is a campaign violation.
- There are no electoral regulations that would allow the C.R.O. to penalize an incumbent (i.e. - the Director of Operations) who may or may not have adequately performed his duties.
- There is no specific penalty required by the Regulation for a violation of the slate registration requirements.
- The Regulation was not well known outside of the current Council due to inadvertent difficulties with the KSA website in the period between its adoption and the General Election.
- One purpose of the Regulation is to prevent secret, unadvertised slates.
- A second purpose of the Regulation is to provide a contact person for slates.
- There was never any doubt who was campaigning as the Progressive Party or who their spokesperson was meant to be.
- Completed forms were received from C.S.I., the R.A.F. Party, and the Progressive Party by the end of the campaign period.
- The complainants do not ask for any penalty to be assessed against the R.A.F. Party while they request that the Progressive Party be punished.
- The total campaign period in this case was four days including balloting.

- Only the C.S.I. Party had submitted an appropriate form by the beginning of the all-candidates meeting.

Decision:

- **The complaint is sustained is so far as the Progressive Party and the R.A.F Party did not submit their forms in the appropriate time.**
- It is entirely inappropriate to use the Regulations to give one party an advantage over another where the matter in question is merely a technical breach having absolutely no substantive effect.
- As the offence was unintentional and likely has little or no material impact on the results both the R.A.F. Party and the Progressive Party are warned that they should file registration forms in a timely manner.
- This decision specifically considers that the regulation was not well known and the short campaign period in this election. Other penalties might be appropriate when the regulation is well known, the campaign period is longer, or the effect of the violation is material. That said, candidates are responsible to make themselves familiar with bylaws and regulations.

Communication 17

Summary:

A request that the Progressive Party not be allowed to campaign as a slate because they had not registered as a slate to the date of the complaint – 22 February. This would not apply to the R.A.F. Party because they had no way of knowing about the slate regulation as it allegedly wasn't posted on line [prior to the all-candidates' meeting]. **Signed by Aaron Takhar, Joey Atwal, Jaivin Khatri, and Shiva Prasad – 17**

Summary of comments received:

The Progressive Party asserts that Mr. Nelson asked KSA staff to post the regulations on line in the course of business but that it wasn't done. Further that any human resource issues that this complaint discloses should be dealt with in confidence at Council.

Analysis:

- No new issues are raised by this communication that were not raised in communication 12a above.

Decision:

- As decided in communication 12a above, **The complaint is sustained is so far as the Progressive Party and the R.A.F Party did not submit their forms in the appropriate time.**
- As the offence was unintentional and has no material impact on the results both the R.A.F. Party and the Progressive Party are warned that they should file registration forms in a timely manner.

Communication 12b

Summary:

An allegation that the Progressive Party had not submitted its registration on 24 February. Request that the “elections committee” resolve the matter quickly. **Signed by Steve Lee, Aaron Takhar, and Johnny Woo – 12b**

*Summary of comments received:***Comments from the Progressive Party Received**

As presented in communication 12a, the Progressive Party asserts that the status of the required registration form was not clear, that they complied [as best they could] with directives that they had confirmed as coming from the C.R.O. They further note that the form does not affect the number of votes a party receives and that the complaint is immaterial.

Analysis:

- No new issues are raised by this communication that were not raised in communications 12a and 17 above.

Decision:

- As decided in communications 12a and 17 above, **The complaint is sustained is so far as the Progressive Party and the R.A.F Party did not submit their forms in the appropriate time.**
- As the offence was unintentional and has no material impact on the results both the R.A.F. Party and the Progressive Party are warned that they should file registration forms in a timely manner.

Communication 38*Summary:*

An allegation that members of the Progressive Party were ordered to cease campaigning as a slate at 2 PM on 24 February by the C.R.O. and his “elections committee” unless they were registered and that they continued to campaign as a slate after that time. Request to enforce the electoral by-laws and regulations. **Signed by Steve Lee, Arka Movsessian, and Lisa Coan – 38**

Summary of comments received:

The Progressive Party asserts that they had some difficulty with a cellular phone that made communication between Jeff Nelson and other members of the slate difficult. They point out that they did submit a party member list to the C.R.O. at the time of the all-candidates meeting but that it was not signed by all the members at that time. The form has now been submitted with signatures. They further suggest that the form had no material effect of the election.

Analysis:

The general discussion concerning Regulation X 5 4 (vii) above is repeated.

- The Progressive Party did in fact submit a form signed by the campaign manager by the morning of 24 February.
- As a result of a review of the regulations by the C.R.O. and the administrative staff it was determined that it would be best if the form was signed by each individual member of the slate.
- No decision was made by the C.R.O. to impose a penalty for the irregularity – although it was very clear that the administrative staff had reached their own views concerning penalty. The information in this complaint suggests that the views of the administrative staff were inappropriately and incorrectly communicated to the complainants. For this, the CRO apologizes for his administrative staffs’ errors.

Decision:

- As decided in communications 12a, 12b, and 17 above, **The complaint is sustained is so far as the Progressive Party and the R.A.F Party did not submit their forms in the appropriate time.**
- As the offence was unintentional and has no material impact on the results both the R.A.F. Party and the Progressive Party are warned that they should file registration forms in a timely manner.

Communication 50***Summary:***

An allegation that the Progressive Party continued to campaign as a slate after 10AM on 24 February contrary to a notification from the C.R.O. A note that this is contrary to the slate registration regulations. Also a note that the Director of Operations is required to keep the members of the Society informed about changes to the regulations and that the regulations were not kept up-to-date on line. A request that there be a new election.

Signed by Aaron Takhar, Mat Huff, Jaivin Khatri, and Mariana Nakhla – 50

No comments have been received

Analysis:

- No new issues are raised by this communication that were not raised in communications 12a, 12b, 17, and 38 above.

Decision:

- As decided in communications 12a, 12b, 17, and 38 above, **The complaint is sustained is so far as the Progressive Party and the R.A.F Party did not submit their forms in the appropriate time.**
- As the offence was unintentional and has no material impact on the results both the R.A.F. Party and the Progressive Party are warned that they should file registration forms in a timely manner.

Section IX

Allegations and issues regarding balloting

Issued 18 March 2005 or 31 March 2005 as indicated below.

Communication 32

Issued 31 March 2005

Summary:

An allegation that certain poll clerks were seen putting ballots into the ballot box at the Surrey Campus for no apparent reason on 25 February. **Signed by Patrick Meehan, Kailee Bruce, and Jesse Hewitt – 32**

No Comments were received

Analysis:

- Regulation X 8 11 (iii) says that, while working, no poll clerk shall inspect a voter's marked ballot nor vote while working.
- The C.R.O. made inquiries of all potential witnesses to this event.
- The evidence is inconclusive at this stage.

Decision:

- Although these allegations are very serious, no direct proof has been submitted of any electoral violation.
- **The complaint is dismissed in its entirety.**
- This finding does not affect the right and duty of the CRO to finally determine the validity of balloting in Surrey or any other campus under the C.R.O.'s powers as set out in Article 2 of the Regulations.

Communication 40

Issued 31 March 2005

Summary:

An allegation by the Progressive Party that the R.A.F. Party made efforts to have a close associate appointed as a poll clerk in Surrey and that this person put ballots into the ballot box inappropriately. Patrick Meehan and others are alleged to have witnessed this activity. Request that the R.A.F. Party candidates for multi-campus and Surrey specific positions be disqualified. Further request that persons currently associated with the R.A.F. Party be stripped of membership rights and banned from running in KSA elections. **Signed by Jeff Nelson, Matt Vu, and Forrest Li – 40**

Summary of comments received:

The Progressive Party withdraws the complaint and states that communication 32 addresses the issues of concern to them.

The R.A.F. Party states that the communication is complete hearsay. Further they point out that members of the Progressive Party work closely with the C.R.O. in his role as Policy Analyst. In a later interview with the C.R.O., Aaron Takhar denied knowing any poll clerks.

Analysis:

- The complaint has been withdrawn on the basis that the allegations are set out in communication 32.

Decision:

- As the complaint was withdrawn, no decision is necessary regarding this now withdrawn communication.

Communication A

Issued 18 March 2005

Summary:

On the afternoon of 25 February the C.R.O. was informed by the Chief Poll Clerk that the Newton ballot box was missing and presumed stolen. The circumstances relayed were that the poll clerk assigned to bring the box back to Surrey for counting put the box down near her car to briefly look for something and that it was gone when she looked back. The incident apparently occurred around 3:25 PM.

The incident has been reported to Surrey RCMP – file number 05-23664 – and to Kwantlen security at the Newton Campus. Newton Campus security has had some discussion about the circumstances with the Chief Poll Clerk and the C.R.O. They have requested to speak to the poll clerk in question. **Newton Ballot Box Missing – Item A**

Analysis:

This communication was submitted by the C.R.O. to record the incident.

Decision:

- The issue has now been raised in communication 39
- No further action is required

Communication 39

Issued 18 March 2005

Summary:

An allegation that the Newton ballot box was stolen and that the C.R.O. was [not fulfilling his obligation to keep the ballot box secure]. Also contains an allegation that Duncan McDonald told [a] poll clerk not to hand out multi-campus ballots for a four hour period on Thursday. **Signed by Steve Lee, Arka Movsessian, and Lisa Coan – 39**

Analysis:

This decision only relates to the Newton ballot box incident.

- Regulation X 3 1 (xvii) – requires the C.R.O. to cause ballot boxes to be distributed to and collected from the polling stations.
- This task was assigned to the Chief Poll Clerk.
- The Newton ballot box has gone missing.
- No ballots cast at Newton are available for counting.

Decision:

- The complaint is sustained.
- Newton Campus will be re-pollled on 4 and 5 April.
- The polls will be open from 10AM to 2PM on each day.
- The polling will be directly supervised by the C.R.O.
- The no-campaigning buffer zone surrounding the polling station will be the entire Newton Campus for this re-balloting
- Ballots will be prepared with all eligible candidates nominated in the General Election for Newton Campus positions and for Executive and Liaison positions.
- Each candidate will be allowed to have a scrutineer at the polls.
- Ballots will be counted on Wednesday 6 April 2005.
- Each candidate will be allowed to have a scrutineer at the ballot counting.
- Only members whose home campus is Newton will be allowed to cast ballots in this re-balloting.
- Submissions from candidates and their managers will only be considered if they are sent electronically to comments@yourksa.ca within the appropriate time periods.