

Ombudsperson's Note – Complaint Submitted April 7/2005

From: Jeff Nelson

To: Ombudsperson

Appeal

1) Description of the issue in question;

RAF candidates willingly disregarded election rules by tearing down election posters of another party. The CRO was informed of this occurrence once verbally, once officially with a formal written complaint, and once with a written complaint accompanied with detailed, colour photographic evidence of the offence.

On the night of Thursday, February 24th 2005, Jeff Nelson saw a member of the RAF party enter the D building on surrey campus. He followed this member and witnessed him ripping down Progressive party posters. Seen here are pictures taken from the door on the third floor of D building. Later he returned and found remains of some of the posters in the garbage. I would formally request that the RAF party be disqualified for their blatant disregard of the rules.

2) Report of the decisions being appealed;

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

Ombudsperson's Note – Complaint Submitted April 7/2005

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.
- 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.

Ombudsperson's Note – Complaint Submitted April 7/2005

- 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.**

There is also another complaint that has been ruled upon; however, it is not posted currently and I would include it if possible. I respectfully request that you gain access to the ruling from the CRO for the purposes of rendering a verdict in this appeal.

3) Statement of Remedy Sought

This being a serious office the RAF party should be disqualified as a whole as stated by Regulation 6, 11. The rule violation was intentional and repeated. New rules have been put in place specifically to give the CRO the right to disqualify an entire slate for these specific situations.

4) Description of the errors made by the CRO:

1. Mis-interpreted complaint as a minor offence
2. Mis-interpretation of the offence as not worthy of disqualification breaking with past precedent.

Ombudsperson's Note – Complaint Submitted April 7/2005

Section X,
Article 6

- 3 Generally, minor offences are characterized by being:
- i) accidental or unintentional; and
 - ii) are likely to have little or no material impact on the results.
- 4 Generally, serious offences are characterized by being:
- i) intentional or deliberate; and
 - ii) are likely to have a material impact on the results.

1. Whereas, as stated by section X, Article 6, Subsection 4 the standard for deeming an offence to be serious is that it 1) be intentional or deliberate and 2) that it is likely to have a material impact on the results.

Whereas, the action of tearing down an opposing candidates posters twice can not be construe as anything but intentional and deliberate. Further to the point, campaign posters are one of the primary means of presenting a message to the membership. The lost of campaign posters undoubtedly has a material impact on the number of students voting for a candidate. The standard being "likely to have a material impact on the results" this does reach this standard. This demonstrates a failure of the CRO to apply appropriate weight to evidence within the regulations of the society.

Whereas, these offences reach the standard for both characteristics of a serious offence it must be considered a serious offence.

2. Whereas, minor offences have resulted in disqualification in the past, serious offences warrant more serious rulings. In the February 2004 KSA election the RAF party was disqualified in whole for repeated minor offences that could have been seen as accidental. Refer to Ruling #16 February 2004 KSA General Election. The standard has decreased for a CRO and elections committee to disqualify a slate since last election, see Article 6, 11. This demonstrates a deficiency in the CRO's ability to interpret new rules. Currently, we have a serious offence that occurred repeatedly and the ruling fell short of the previous standard that has been set by minor offences.

Therefore, the CRO's delinquency in not strictly following the rules has resulted in the possible candidacy of a party that committed serious offences at the expense of other candidates that followed the rules.

Ombudsperson's Note – Complaint Submitted April 7/2005

Final Notes:

Candidates were not allowed to touch campaign posters, even their own. The CRO appointed people to put up posters for candidates.

Only RAF candidates were given T-shirts establishing that it was a RAF candidate.

This was the second election for many of the RAF candidates they were aware of the rules; however, how could anyone think tearing down posters would appropriate.

Picture provided with original complaint.

