

# APPEAL OF THE CRO'S RULING

Date: Saturday, April 30, 2005  
To: Paul Browning, KSA Ombudsperson  
From: Members of the Reduce All Fees Party

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Please accept this as the appeal of the recent "Final Report" issued by Ron Correll, Chief Returning Officer (CRO). Prior to reviewing the specifics of each of the CRO's decisions, the RAF Party would first like the Ombudsperson to review whether the CRO even had the authority to make such decisions. As you will see below, it is the position of the RAF Party that Mr. Correll does not have the authority to make such decisions. However, if you disagree with the RAF Party's submission regarding the general authority to issue his so-called Final Report, then the RAF Party also submits that the individual decisions reveal serious procedural errors as well.

Should you have any questions, please contact Aaron Takhar, RAF Party spokesperson at 604-537-1503.

## **Appeal of the CRO's Authority to Issue Rulings in his Final Report:**

Section X, Article 3 of the regulations establishes the duties of the CRO. Those duties are essentially limited to duties related to the counting of ballots. Conversely, Section X, Article 2 of the regulations establishes the authority of the Elections Committee. Those duties include the authority to interpret the elections regulations and issue rulings based on the regulations.

Throughout much of the course of the election, a committee of Erin Minor, Pavan Bassi and Ron Correll functioned as the Elections Committee. However, at some point, for reasons unknown to the RAF party, Mr. Correll "fired" the other members of the committee. He argued that the other members of the Committee had not been appointed by Council. However, Mr. Correll, who regularly attends Council Meetings, would have been aware since Mr. Bassi and Ms. Minor commenced work on the Electoral Committee that they had not been ratified by Council. So would the majority of Council. However, for most of the duration of the election, no effort was made to remove Mr. Bassi or Ms. Minor. As a result, Mr. Bassi and Ms. Minor, along with Mr. Correll, became the *de facto* Elections Committee. Therefore, Mr. Correll should not have issued his ruling as it was outside of his jurisdiction.

Only the Elections Committee has the authority to disqualify candidates. By abolishing Elections Committee, and assuming for himself the powers vested in that Committee, the CRO lost his authority to act, and his report is null and void for lack of jurisdiction.

If, as the CRO apparently believed, Council never formally appointed the other two members of the EC, then there never was an EC and thus there was no entity which had the legal authority to disqualify a candidate. On the other hand, if there was a properly constituted EC, and the CRO purported to discharge the other members, then he was required to make a report of his decision to Council, who would then have been required to appoint new members of the Committee. Since that did not happen, the CRO was without jurisdiction to exercise the authority vested in the Committee

The limitation on the power of the CRO is revealed by the general division of powers between the EC and the CRO as spelled out in the Elections Regulations. For example, article 11, which requires that any preliminary rulings by the CRO must be ratified by the EC within 48 hours, reveals the limitations on the authority of the CRO to act without the support of the EC. Article 6 specifically provides that "The Elections Committee may penalize any candidate...". No such power is given to the CRO acting alone.

The fact that the CRO waited until after April 1 to issue his report also caused him to lose jurisdiction to issue such a report. Under the Regulations, the CRO is required to submit the report of the EC to Council, and that becomes the moment that power transfers. However, by delaying his report until after April 1, Council was no longer in office, and was without authority to receive the report.

Further, in deciding to disqualify certain candidates the CRO placed weight on the events in April, by which the RAF party came to occupy the executive offices. Those events have nothing to do with the fairness of the election, and are not within the mandate of the CRO or the Electoral Committee. In placing weight on an extraneous matter such as this, the CRO committed a procedural error, and exceeded his jurisdiction

Based on the above, the RAF Party proposes that the remedy applied be that the CRO's ruling be set aside and that the election results be ratified based on the number of votes received by each candidate.

**Appeal of Decision relating to Candidate Eligibility:**

The RAF Party submits that the CRO overstepped his authority and in doing so, violated KSA procedures in disqualifying the entire RAF Party simply because some candidates were ineligible for the positions for which they were seeking election. The vast majority of RAF Candidates were, in fact, eligible for the positions for which they were seeking election and the actions of their candidacy is in no way invalidated by a few candidates being declared ineligible. Further, the majority of candidates who were ineligible actually withdrew their candidacy prior to the commencement of voting. While the RAF Party regrets that its inexperience with the voluminous KSA regulations may have led to some ineligible candidates initially seeking office for positions, these errors were corrected immediately and those candidates' names did not appear on the ballot. The five remaining candidates who Mr. Correll declares ineligible are indeed eligible for the election. However, Mr. Correll only sought proof of eligibility after the elections, when those candidates had left the Lower Mainland on vacation. Had Mr. Correll sought proof of eligibility in a timely fashion such proof could be submitted. The RAF Party commits to submitting proof of eligibility upon these candidates return.

Further, the CRO also exceeded his jurisdiction by considering matters raised in complaints which were lodged outside the 72 hour deadline in the Regulations. The CRO purported to reject those complaints as having been made too late, but then considered them in the process of weighing the seriousness of the alleged infractions of the various candidates. In so doing, the CRO failed to apply the time limits set out in the regulations, and he thereby committed a serious procedural error and exceeded his jurisdiction. If the complaints were out of time, the CRO had no authority to consider the matters raised in them.

Based on the above, the RAF Party proposes that the remedy applied be that the CRO's ruling be set aside and that the election results be ratified based on the number of votes received by each candidate.

**Appeal of Decision relating to Election Expenses:**

The RAF Party notes that the CRO bases his decision on two factors. First, that he believes the "market value" of the RAF Party t-shirts is significantly higher than the value the RAF Party declared. Second, that expenses related to the "RAF Party Poster" should be attributed to all RAF Party candidates.

The RAF Party rejects the notion that the CRO is free to determine a "market value" higher than the submitted value in cases where a candidate or party submits a receipt from the provider of the product or service. In the case of the t-shirts, the RAF Party submitted a receipt clearly showing that the t-shirt maker charged the RAF Party \$7.21 per shirt. It should be the actual market, and not the CRO that determines "market value."

In the case of the "RAF Party Poster" the poster only promoted the RAF Party's multi-campus candidates and as such, expenses related to the poster should be billed only to multi-campus

candidates. It is the submission of the RAF Party that the CRO has overstepped his authority by attempting to determine whether or not there was some benefit to single-campus candidates from a party poster promoting only the party's multi-campus candidates.

Based on the above, the RAF Party proposes that the remedy applied be that the CRO's ruling be set aside and that the election results be ratified based on the number of votes received by each candidate.