

January 29, 2006

Steven H. Lee  
[REDACTED]  
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Paul Browning, Ombudsperson  
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Phone: (604) 599-2303

**Re:** KSA Elections – Appeal Regarding Elections Committee Rulings

Dear Mr. Browning,

This letter serves as an official appeal regarding elections committee rulings (Attachment 1) as posted online at the Official Society Website (<http://www.yourksa.ca/> | <http://www.myksa.ca/>) between 4:30 pm – 6:00 pm on Thursday, January 26, 2006.

Notice of this was received in the form of an e-mail (Attachment 2) at around 1:00 am on Friday, January 27, 2006 stating that they had been available online as of Thursday, January 26, 2006 at 8:00pm and that complaints to the Ombudsperson could be submitted up to 8:00pm on Sunday, January 29, 2006. Still, no contact information for the Ombudsperson is given in the e-mail or online.

### **Contentions**

I would argue that the committee has erred in its rulings by failing to take into account the severity of the allegations presented, as well as in its own failure to adhere to the KSA Bylaws and Regulations, as based on the following points:

1. That the meeting of the Elections Committee was out of order due to the fact that no notice of it was given, no agendas posted or distributed to any interested parties and that the meeting was held off-campus;
2. Validity of Section X, Article 4(2) of the KSA “RAF 2K5” Regulations;
3. That the contact information for the Ombudsperson continues to be not easily found, making it difficult for candidates or other students who may want to complain to actually do so;
4. That the Conflict of Interest complaint as filed by Steven Lee regarding the conduct of Mr. Kulvir Gill was not investigated properly by the Elections Committee (complaint #2);
5. That the Election was poorly advertised (complaint 3 and 5);
6. That the Election Results were not properly recorded by the CRO and the Elections Committee (results as posted online; complaint 5);

7. That the “RAF2K5” Bylaws violate the spirit of the KSA constitution in terms of:
  - a. How one is elected to campus council positions; *and*
  - b. How one votes for campus council positions (complaint #6).
8. That there were further incidents of threats & intimidation not covered by complaint #4;
9. That little to nothing was done to ensure the integrity of the polling stations on each campus (complaint #8 and #9);
10. That there has been no word on:
  - a. whether or not expense reports were submitted on time;
  - b. if they were reviewed by the CRO and the Elections Committee; and
  - c. if they were under the limits, which were either set by Council or the Committee.
11. That members of the RAF have already taken office when the results have not yet been made final; *and*
12. That it appears the process for dealing with complaints is either not understood by the CRO or is deliberately not being followed by the CRO.

### **Proof of Contentions**

1. **That the meeting of the Elections Committee was out of order due to the fact that no notice of it was given, no agendas posted or distributed to any interested parties and that the meeting was held off-campus;**

Section IV. Committees, Article 1(8) of both the old KSA Regulations and the new “RAF 2K5” Regulations, as adopted on January 6, 2006 states that “*All society committee meetings must be held on Kwantlen University College campuses*” and further, the “RAF 2K5” Regulations add: “*unless decided otherwise by a two-thirds (2/3) resolution of the committee.*” Now Section X, Article 4(2) of the “RAF 2K5” Regulations does note that:

*“If the Board of Directors decides to contract out the entirety of an election to an outside entity, all provisions of the election section of the regulations shall be suspended and the election governed in a manner decided by the outside entity. The outside entity, however, must try to adhere to the electoral section of the regulations as much as possible.”*

This makes it clear that only provisions in the electoral section of the Regulations shall be suspended, and no other section, including the “Committees of Council” section. As such, since no minutes have yet been provided showing a meeting being held on-campus, with a motion to declare that all future meetings may be held off-campus, I call into question the validity of the January 25, 2006 (Attachment 1) meeting.

2. **Validity of Section X, Article 4(2) of the KSA “RAF 2K5” Regulations;**

As you know, Section X, Article 4(2) of the “RAF 2K5” Regulations states that:

*“If the Board of Directors decides to contract out the entirety of an election to an outside entity, all provisions of the election section of the regulations shall be suspended and the election governed in a manner decided by the outside entity.”*

*The outside entity, however, must try to adhere to the electoral section of the regulations as much as possible.”*

I question the validity of such a paragraph in terms of allowing all electoral provisions to be suspended. Article 8(9)(iv) of the old and Article 7(9)(iv) of the new “RAF2K5” Bylaws stated that a general election shall:

*“...have other such rules as set out in the Regulations.”*

As well, Article 8(10) of the old and Article 7(10) of the new “RAF2K5” Bylaws state that:

*“Notwithstanding any other Bylaw herein, Regulations relating to elections shall not be amended between December 31 and the Annual General Meeting of the Society, except by an Ordinary Resolution.”*

As such, I would contend that Section X, Article 4(2) of the “RAF 2K5” Regulations is not in order as it contravenes and is actually ultra vires to the conditions set out under Article 8(9)(iv) / Article 7(9)(iv) and Article 8(10) / Article 7(10) of the Bylaws.

Finally, under Article 2(2)(xv) and (xvi) of the old KSA Regulations, the committee did have the power to:

*“...interpret these Electoral Procedures;”* and to

*“create additional rules and regulations for the running of elections and referenda...”*

However, these paragraphs appear to have been removed from the new “RAF 2K5” Regulations that were adopted in November 2005. It is also important to note that these old paragraphs did not contravene the Bylaws as they gave provision to the Committee to *interpret* and *create additional* rules as required, but it did not give them the option of disregarding any of the Bylaws or the Regulations as Section X, Article 4(2) does.

**3. That the contact information for the Ombudsperson continues to be not easily found, making it difficult for candidates or other students who may want to complain to actually do so;**

Section III (2) (iv) and (v) of both the old KSA Bylaws and the new “RAF2K5” Bylaws state that the Ombudsperson shall:

*(iv) make known to the Members and the staff that she is available for the hearing of complaints, by placing a minimum of one (1) advertisement or notice within a campus publication and by the affixation of posters in conspicuous places on all campuses;*

*(v) post, in or about the Society’s offices on each campus, a means by which staff and Members can directly contact the Ombudsperson.*

As of January 28, 2006 no means exist for those students who do not already have the Ombudsperson’s contact information to contact the Ombudsperson, as follows:

- No contact information exists on the Official Website of the Society (<http://www.myksa.ca/> | <http://www.yourksa.ca/> );
- No contact information for the Ombudsperson was provided to the CRO when he instructed individuals to contact the Ombudsperson if they had further complaints / appeals / concerns (Attachment 2);
- E-mails were sent out by the Ombudsperson to most candidates from the Ombudsperson's e-mail address, which also contained the Ombudsperson's phone number and an e-mail was sent out by the Ombudsperson to all candidates in specific response to this issue (Attachment 3). This is useful for candidates, but does not assist the general student who may have concern(s) about the election that they would like to forward to the Ombudsperson;
- The level of advertising on each campus council is questionable. Very visible signage used to exist in Richmond, however as of Thursday, January 26, 2006, this signage had been removed from the office window. It is unclear how long this signage had been removed for. Its removal can be seen via the video footage taken on January 26, 2006. Brochures have also been placed on some campuses, but not every campus has areas to display brochures when the KSA Offices are closed.

The above discrepancies are not the fault of the Ombudsperson, as when the current Ombudsperson took office, there was:

- Contact information on the Official Society Website;
- Signage and postering on most campuses in prominent areas;  
*and*
- Brochures available on most campuses in prominent areas.

However the level of advertising has diminished over the past year, with the website being overhauled and with the offices undergoing many changes, including the firing of long-time staff, some of which used to assist in ensuring Ombudsperson brochures were printed and distributed to the various offices of the Society.

However, it is still a concern nonetheless, as at the very least, contact information should be accessible on the Society's website. Ensuring the accessibility of the Ombudsperson to all students should be of primary importance to all KSA elected officials and staff, at all times.

**4. That the Conflict of Interest complaint as filed by Steven Lee regarding the conduct of Mr. Kulvir Gill was not investigated properly by the Elections Committee (complaint #2);**

In Mr. Gill's response to the committee and the allegations made in my complaint, he made a number of points, which I respond to in Attachment Number 4.

My main contention with this complaint is that it appears the committee did no real investigation, on a number of points:

- They did not seem to ask for the video Kulvir had;
- They asked for a written response and did not interview him in person – interviewing him in person would have helped assess his guilt in terms of how he responded to the questions;
- They did not seek to interview security or facilities in Richmond to see if any record existed of letting people into the KSA offices during the election; *and*
- They did not seem to weigh all the evidence provided to them.

As such, if the committee had done its homework, it seems reasonable for the committee to have concluded:

- That he has no video evidence of security letting people into his office;
- That it is unlikely that materials were created and planted;
- That it is likely that Mr. Gill inadvertently left the materials in his office because he does not have any grasp over the rules that govern the elections; *and*
- That this is at least a minor violation.

What is perhaps the most interesting, is that I found the same two T-shirts still lying on his couch, when I went to Richmond at about 9pm on Thursday, January 26, 2006, based on word that the RAF candidates had taken office and had posted hours. When I again peered through the ceiling out of curiosity with my camera, I could see the same election t-shirts still lying on his couch. But at least the cart was gone.

#### **5. That the Election was poorly advertised (complaint 3 and 5);**

I have contended and clearly demonstrated in past complaints to the Ombudsperson that:

- Council choose dates for the nomination period that were contrary to the provisions contained in both the old and the new “RAF 2K5” Bylaws;
- the election was poorly advertised by the Committee.

I submitted these concerns directly to the Ombudsperson in addendums to “Complaints Number 12” and “13” as the original complaints “12” and “13” served to mainly call into question the legitimacy of the Council meetings and

the motions that were moved at them as held in December 2005 and January 2006 [No notice was served for these meetings, nor were any agendas or minutes distributed for them. In fact, the issue of poor distribution of minutes and agendas is one that independent candidate Rob Mumford shares (Attachment 5)]. As such, I would ask that the Ombudsperson seek to finish his investigation into these complaints at the same time as he finishes his investigation into all electoral complaints.

Proof of the above contentions included videotape taken of all bulletin boards on every campus to see if there were any posters posted. During the week of January 9, 2006 I suggested to the Ombudsperson that he try to do his own visual check of at least, the Surrey Campus, to see what advertising, if any, had been done.

Furthermore, it appears that other candidates have shared the same concerns regarding the serving of notice for this election. Specifically, Mat Huff, in his complaint titled "Election complaint #2" as posted on the KSA website as "Complaint 5" (Attachment 6) stated:

*"On all campuses, There was little to no notice given of the upcoming nomination period. Of the few posters that were found on each campus, none had information regarding how to get nominated, when the nomination period began or ended, or where to obtain nomination packages. Indeed it seems as if the only way one could have known about the election is if one already had a rather close relationship with the KSA. Obviously, the notice of this election to the general student population was grossly insufficient. This has a direct material impact on the result of the election due the fact that it severely limited the number of possible candidates able to run in the election. For this reason, the election should be declared invalid and a new one held with sufficient notice posted."*

I agree with Mr. Huff's assessment. However, the Elections Committee does not, as it stated on page 5 of its meeting minutes for the January 25, 2006 (Attachment 1) meeting that:

*"The committee had posters on every campus from the opening of nominations, January 9, 2006. It was not possible to advertise the opening of nominations because there was no school for the week prior to the opening of nominations. The nomination period, campaigning period, voting days etc... were adequately advertised given the timeframe of events. The only form of advertisement that did not happen was in the student newspaper due to their printing schedule. The committee took whatever means necessary to widely advertise the election to the best of its ability. The voter turnout was, in fact, more than most years, indicating that the committee did a sufficient job in advertising the election."*

Also, the Elections Committee stated this in their response to "Complaint #3" (Attachments 1 and 7):

*"Poster rules exist but will not be applied in this case as both the "yes" and "no" sides have a vested interest in the referendum. Both sides had advertised professionally and civilly."*

*"It did, however, make the referendum more noticeable to student, something that this committee tried to do more of."*

It's interesting that "*both sides had advertised professionally and civilly,*" yet the CRO does not specify how the sides advertised in relation to this specific complaint, which is about postering. It's also interesting that they state "*something that this committee tried to do more of.*" The statement seems to exhibit some degree of guilt that the Committee realized that they did little to no advertising for this election – at least none that can actually be objectively verified. In addition, based on evidence already compiled and submitted to the Ombudsperson in Complaints "12," "13" and "Election Complaint Number 2 – Validity of Elections," it appears that all of the above points can be adequately refuted:

Points Made	Responses by Steven Lee
<p><i>"The committee had posters on every campus from the opening of nominations, January 9, 2006."</i></p>	<p>If the committee had posters up, then they should provide the Ombudsperson with copy of what was posted.</p> <p>How many posters were posted? Where exactly were posters posted – was the information as to where posters were hung recorded by anyone? Who oversaw and tracked the postings to ensure enough posters went up on time on each campus?</p>
<p><i>"It was not possible to advertise the opening of nominations because there was no school for the week prior to the opening of nominations."</i></p>	<p>The dates for the Spring 2006 General Election were supposedly passed at the December 16, 2005 meeting of the KSA Board of Directors.</p> <p>It is also my understanding that the CRO had also been hired by this time.</p> <p>There were still exams during the week of Monday, December 19, 2005 and ended on December 22<sup>nd</sup>. The CRO could have ensured that posters went up on every campus by this date, or anytime that week.</p> <p>Furthermore, the point that there was <i>no school for the week prior to the opening of nominations</i> is erroneous and misleading. While there were no classes, the University-College was open for business and was only closed from December 24<sup>th</sup> – 28<sup>th</sup>, and from January 1<sup>st</sup> to the 3<sup>rd</sup>.</p> <p><a href="http://www.kwantlen.ca/admission/crs/archive/200530/dates0530.html">http://www.kwantlen.ca/admission/crs/archive/200530/dates0530.html</a></p> <p><a href="http://www.kwantlen.ca/admission/frnt/dates.html">http://www.kwantlen.ca/admission/frnt/dates.html</a></p>
<p><i>"The nomination period, campaigning period, voting days etc... were adequately advertised given the timeframe of events. The only form of advertisement that did not happen was in the student newspaper due to their printing schedule. The committee took whatever means necessary to widely advertise the election to the best of its ability."</i></p>	<p>This again appears to be yet another erroneous statement, given the evidence that has been compiled to date. Furthermore, the student newspaper did have an issue out before the actual voting days, and even if they did not have an issue out before the opening of nominations, no reason is stated as to why advertisements for:</p> <ul style="list-style-type: none"> <li>• notice of polling including the dates, times and places of polling as required by the Bylaws; and</li> </ul>

Points Made	Responses by Steven Lee
	<ul style="list-style-type: none"> <li>• notice of referendum including the complete question being put forward to the membership for consideration.</li> </ul> <p>were not placed in the Chronicle, which did print on Monday, January 16, 2006 and even featured an interview with out-going Chairperson and Director of Finance Aaron S. Takhar (Attachment 23, who managed to mention the upcoming formal dinner-dance, but failed to mention anything about the election or the referendum).</p> <p>It also does not explain why nothing appeared on the Society website prior to the afternoon of Friday, January 13, 2006; or why nothing appeared on the events section of the Kwantlen homepage for events (the First Year Experience).</p> <p>Furthermore, the above statement does not explain why brochures or leaflets were not distributed on-mass as a form of advertising the election. These could have been handed out to students in bookstore line-ups, or to students in classes, or to students purchasing stuff from the business offices (this has been done in the past).</p> <p>Finally, the Board of Directors could have passed a motion to state that the website and flyers count as publications, but from my knowledge the Board did not do this.</p>
<p><i>“The voter turnout was, in fact, more than most years, indicating that the committee did a sufficient job in advertising the election.”</i></p>	<p>This statement is a red herring of sorts, and has nothing to do with the question of whether or not notice of the election met the standards as laid out in the KSA Bylaws and Regulations.</p> <p>They fail to provide any actual comparison and seem to be based on hearsay (see next point for a breakdown of total ballots cast since 2001).</p> <p>I’m not sure what data this statement is based upon, because the results as posted are somewhat inconclusive, and fail to meet the requirements for results as laid out in the Regulations, because:</p> <ul style="list-style-type: none"> <li>• They fail to record the number of blank or spoiled ballots cast for each candidate and for the referendum question; <i>and</i></li> <li>• The data for the Spring 2005 General Election and the Fall 2004 By-Election are in a similar state of disarray, failing to provide proper vote tallies for each individual candidate or referendum question (if applicable) by failing to include the total number of ballots cast on each campus as well as the number of blank or spoiled ballots cast.</li> </ul>

**6. That the Election Results were not properly recorded by the CRO and the Elections Committee;**

Section X, Article 10 (4) (xiii) of the old KSA Regulations or Section X, Article 10(3)(xi) of the “RAF 2K5” Regulations which state:

*“The Chief Returning Officer shall present a written report on the ballot counting, along with the results of the count, to the Elections Committee. This report shall include a record of the daily returns from each polling station, indicating how many ballots were cast in total and for each candidate at each polling station on each day.”*

The results as posted online (Attachment 8) are somewhat inconclusive, as they do not:

- Include daily returns from each polling station;
- Indicate how many ballots were cast in total;
- Indicate how many ballots were cast in total for each candidate at each polling station on each day; *and*
- Include counts for the number of spoiled or blank ballots as cast towards individual candidates.

This specific regulation has not been followed since the Spring 2003 General Election. Also, I find it misleading when people at the KSA make statements such as (Page 5, Attachment 1):

*“The voter turnout was, in fact, more than most years, indicating that the committee did a sufficient job in advertising the election.”*

Voter turnout does not seem to be higher than previous years, as can be seen by the following chart:

<b>Election</b>	<b>Total Number of Ballots Cast</b>
Fall 2001 By-Election	635
Spring 2002 General Election	406
Fall 2002 By-Election	671
Spring 2003 General Election	704
Fall 2003 By-Election	Unknown
Spring 2004 General Election	Unknown
Fall 2004 By-Election	Approximately 400 (?) *
Spring 2005 General Election	Approximately 854 (?) *
Spring 2006 General Election	Hard to tell based on results from online.  Between 850 (results for referendum) and 1,150 (results for president) *

\* No total count of ballots cast was provided for the results of these elections. Information does not include counts of spoilt ballots or ballots that were simply left blank – as such, nothing adds up when someone tries to figure out how many ballots were cast in total, on their own.

From the results that are currently presented online at the Society's Official Website (Attachment 8), it is very difficult to extract the requirements of this Regulation in any meaningful way. What is more baffling is that I discussed the presentation of the results issue with the CRO via e-mail (Attachment 9), noting that the last few elections have had inaccurate results presented:

*"As far as the recording of results, I'm sure that there will not be any shortfalls. I take great pride in my work so I will ensure that results are accurate and fair and presented professionally after the count on Friday. There should be no problems with anything."*

I even provided to him samples of past reports (Attachment 10) that I compiled when I was CRO, which more closely meet the requirements of Section X, Article 10(3)(xi), although they do not always indicate the results on a per day basis. Even results from Elections Canada are more accurate and include rejected ballot counts for a poll-by-poll tracking. The first set of attached samples however are much more accurate than what has been posted as results since the fall of 2003 by the KSA. Given I provided him with samples of how to present accurate results, there is no excuse as to why more accurate results were not presented for this election.

In Complaint #9 (Attachment 11), the candidate (a member of the Student Movement slate) in question requested a recount. The committee dismissed this request as "*A recount is very time consuming and costly.*" To me, this is not a valid excuse for denying any request for a recount. I would further add that all CSI slate candidates would support a recount supervised by the KSA's auditing firm. As such, the CRO now has two of the three major slates supporting a recount, which represents more than a majority of the candidates running.

Based on the many inconsistencies regarding the results, as well as regarding the trust that some candidates have with the results (some have heard from sources close to the KSA that the referendum question actually failed), a recount would probably be in order, but one that is perhaps conducted by the KSA's auditing firm, so that we can get an accurate and proper breakdown, that as closely as possible follows the requirements of the above regulation, as well as include a complete breakdown of ballots cast on each campus, as well as a recording of the spoiled / blank ballots received for each candidate or on each referendum issue. This may be time consuming and costly, but to ensure valid results, it is absolutely necessary. Time and cost should never be factors in ensuring a valid count.

- 7. That the "RAF2K5" Bylaws violate the spirit of the KSA constitution in terms of:**
- b. How one is elected to campus council positions; and**
  - c. How one votes for campus council positions (complaint #6).**

I raised this issue in my previous complaint to the Ombudsperson regarding the validity of the Spring 2005 KSA Elections. I however did not refer to one section of the Bylaws, and I will partially present it here as follows:

CURRENT KSA BY-LAWS	BY-LAW CHANGES – “RAF2K5”
<p><b>Article 5 Council</b></p> <p>2. The voting members of Council shall be:</p> <ul style="list-style-type: none"> <li>i. the five (5) members of the Executive Board;</li> <li>ii. the duly elected Campus Directors, one such director elected from each campus of the Kwantlen University College;</li> <li>iii. the duly elected Campus Representatives, the number of which shall be determined by Article 5(3), elected from each campus of the Kwantlen University College; and</li> <li>iv. such other persons as are approved by Ordinary Resolution.</li> </ul> <p>3. Each campus of the Kwantlen University College shall be entitled to two (2) Campus Representatives on Council. However, each campus with more than three thousand (3,000) Members shall receive an additional Campus Representative for every three thousand (3,000) Members enrolled at that campus.</p> <p>4. The incoming members of Council shall assume their office on April 1, or in the case of a by-election, at the first Council meeting after their election.</p> <p>5. With the exception of the Executive Board members and the Campus Directors, a member of Council must not be remunerated for being or acting as a member of Council but a member of Council must be reimbursed for all expenses necessarily and reasonably incurred by the member of Council while engaged in the affairs of the Society. Rules for such reimbursements shall be set out in the Regulations.</p> <p>6. Council may, by a Two-thirds Resolution, create non-voting seats on Council. The rights and obligations of non-voting members of Council shall be set out in the Regulations.</p>	<p><b>Article 5 Council <i>The Board of Directors</i></b></p> <p>2 The voting members of Council <i>the Board</i> shall be:</p> <ul style="list-style-type: none"> <li><i>i. the five (5) members of the Executive Board; <u>the President;</u></i></li> <li><i>ii. <u>the Treasurer;</u></i></li> <li><i>iii. <u>the three (3) Vice Presidents;</u></i> <ul style="list-style-type: none"> <li><i>a. <u>Vice-President External Affairs</u></i></li> <li><i>b. <u>Vice-President Internal Affairs</u></i></li> <li><i>c. <u>Vice-President Events &amp; Student Life</u></i></li> </ul> </li> <li>ii. the duly elected Campus Directors, one such director elected from each campus of the Kwantlen University College;</li> <li>iii. <del>the duly elected Campus Representatives, the number of which shall be determined by Article 5(3), elected from each campus of the Kwantlen University College; and</del></li> <li>iv. such other persons as are approved by Ordinary Resolution.</li> </ul> <p><del>2 Each campus of the Kwantlen University College shall be entitled to two (2) Campus Representatives on Council. However, each campus with more than three thousand (3,000) Members shall receive an additional Campus Representative for every three thousand (3,000) Members enrolled at that campus.</del></p> <p>3. <i><u>The non-voting members of the board shall be:</u></i></p> <ul style="list-style-type: none"> <li><i>i. <u>At-Large Members, the number of which to be set out in the regulations</u></i></li> <li><i>ii. <u>Any other positions created by this Board from time to time</u></i></li> </ul> <p>4. The incoming members of Council <i>the Board</i> shall assume their office on April 1 <i>10 February</i>, or in the case of a by-election, at the first Council <i>the Board</i> meeting after their election.</p> <p>5. <del>With the exception of the Executive Board members and the Campus Directors, a member of Council must not be remunerated for being or acting as a member of Council but a member of Council must be reimbursed for all expenses necessarily and reasonably incurred by the a member of Council</del> <i>the Board</i> while engaged in the affairs of the Society <i>shall be reimbursed</i>. Rules for such reimbursements shall be set out in the Regulations.</p> <p>6. Council <i>the Board</i> may, by a Two-thirds Resolution, create non-voting seats on Council <i>the Board</i>. The rights and obligations of non-voting members of Council shall be set out in the Regulations.</p> <p>7. <i><u>The Board shall be elected by and from the Members of the Society in a general election</u></i></p>

	<p><u>which shall be held no later than 31 January every other calendar year as determined by the Board, and in no case less than fourteen (14) days prior to the Annual General Meeting. Any member may cast a vote on any campus for any elected position on the board or the campus councils with each member permitted to cast one ballot per election. An elected term shall last 2 years from the date of inauguration. A by-election can be held every year between the years of a general election, the details of which will be decided by the Board and set out in the regulations.</u></p>
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From what I have learned, people on every campus were allowed to vote for all Campus Directors and Member at Large positions of the Kwantlen Student Association. In my previous submission, I argued that this rule change was contrary to most parts of the Constitution [specifically point (k)]; and was also ultra vires to the definition of what a Campus Council is:

*“**Campus Council**” shall mean a democratically elected constituency of the Society at an individual campus of the Kwantlen University College, and shall have those powers and duties as stipulated in these Bylaws and the Regulations;”*

In short, if Campus Council is a constituency representing the needs of an individual campus, then it cannot be elected by and from all Members across all campuses.

I also noted that it was my understanding that the provision to have Campus Councils be elected “*by and from the Members enrolled at that campus*” was removed by Aaron Takhar, who was blocked from obtaining all voting seats on Council when a number of his candidates were found not to be eligible to run on some campuses. In the CRO’s final report for the 2005 General Election (Page 6, Attachment 12), the CRO noted:

*“...that running a large number of ineligible candidates created an impression with the electorate that the R.A.F. Party was a more broadly based coalition than was actually the case.”*

And that (Page 7, Attachment 12):

*“It is possible for slates to benefit from running candidates even where they don’t poll the most votes. It is a false representation of their breadth of support and it allows more campaign expenditure.”*

In complaint #6 to the CRO, candidate and *Student Movement* slate manager Mat Huff noted that the above provision was not properly communicated to students (Attachment 13). Nathan Griffiths also made a similar complaint to the Ombudsperson (Attachment 14).

The CRO stated in his January 25, 2006 Elections Committee minutes (Attachment 1), that “*Candidates were repeatedly told to review the KSA Bylaws and Regulations by the CRO verbally and in writing in the nomination package and all candidates handout.*” However, the nomination package

(Page 3, Attachment 15) and the KSA website (Page 2, Attachment 8) state that:

*“It is advised that each candidate review the electoral section of the Kwantlen Student Association Regulations prior to handing in the nomination package. The link can be found by navigating through [www.myksa.ca](http://www.myksa.ca) or by...”*

But then, the “Confirmation of Nomination” which each candidate had to sign, as included in the all-candidates handbook (Page 4, Attachment 16) states that by signing the candidate swears that:

*“...I have read and understood all KSA Bylaws and Regulations...”*

By having candidates sign a “Confirmation of Nomination” the CRO is essentially binding candidates into a contract. Under Contract law, an offer must include all important terms. Doing so avoids any party (either the candidate or the CRO / Elections Committee) having to imply into contracts any significant terms that the parties may not have considered. Here you have the CRO requesting people to do one thing (review only the electoral sections), but then you have the CRO requesting people to sign off as having done another (read and understand the entire text of the Bylaws and Regulations). To be binding, this particular change should have been clearly laid out to all candidates running. By providing a full text copy of the electoral Bylaws and Regulations, as well as a summary of any other relevant Bylaws and Regulations, this confusion could have been avoided.

The reasonable persons test would appear to apply to this situation. Neither the nomination package nor the all-candidates handbook discuss the change regarding the fact that you don't have to be from a particular campus in order to run or vote for any particular campus council position, therefore it seems reasonable to assume that the old rules, as specified in areas that lie outside the electoral bylaws and regulations, would apply.

However, it could also be implied that you could only run or vote for any particular campus council position as each of the campus council positions are listed together in their own groups, with each grouping corresponding to a particular individual campus. As such, I can see how Mr. Huff could have been confused.

In addition to this, both the nomination package and the all-candidate handbooks both state that if people need clarification on any issue to contact the CRO directly. Mr. Huff attempted to do this but did not receive an answer. Therefore he should not be held liable for something that the CRO verbally discussed with him, even though he said he would review the situation and contact him about it in the near future. My party knew about the change because of a word-by-word, in-depth examination of the Bylaw and Regulation changes that I did last fall; but I can see and understand how others may not know of this change.

In the end, it is clear that this issue had a material effect on the election as it dictated how candidates viewed the conduct of the entire election and

therefore dictated how they choose to expel their campaign resources. It gave some candidates (the RAF candidates) a material advantage over other candidates (Student Movement and possibly Independent candidates).

As such, the issue of whether or not the rules were known is, along with my concern(s) surrounding:

- how members are elected to campus councils;
- how the CRO knew how many at-large positions were available; *and*
- the checking of candidates by the CRO to ensure that they are either Members or Honourary Members of the Soceity eligible to run;

Based on these inconsistencies, it seems fair to:

- question how candidates are elected to campus councils;
- question how the number of at-large positions were chosen; *and*
- call for a complete and independent review of each candidate's eligibility by either the Ombudsperson or by a representative of the KSA's auditing firm (proof of registration and KSA fees paid in either the current or immediately previous term, as printed from each candidate's Web-registration account should be required).

In the end, having directors who are not members could have serious legal implications for the KSA.

**8. That there were further incidents of threats & intimidation not covered by complaint #4;**

Complaint #4 described and dealt with various instances of threats and intimidation. However, members of our slate were also subject to threats, intimidation and even slander.

Lisa Coan, on Thursday, January 19, 2006 got into a shouting match with Joey Atwal in regards to Mr. Atwal telling students that he had video evidence of CSI members groping and sexually harassing women. Furthermore, on Wednesday, January 25, 2006 the following was anonymously posted on my guestbook (Attachment 17):

Wednesday 01/25/2006 12:57:56am

**Name:** very concerned ass student

**E-Mail:**

**Homepage  
Title:**

**Homepage  
URL:**

**Referred  
By:** Search Engine

**Location:**

**Life Long  
Dream:** lock up every sex offender

**Comments:** "Over the past year, the KSA has seen alot of turmoil. I set this site up to keep kwantlen students informed about what is going on at their ksa. i mean no disrespect to anyone by posting this information, my only wish is to provide information to the student body and let them be the judge".....if that were true, you would not be so biased as to attack one group, without looking at yourself...not everyone has heard about mr lee, woo, and kavasiks pervert sexual nature, nor why they are known as "groper and roper" to a small collective group. ive heard plenty of girls speak about ur sexual harassment and overbearing nature that results in you touching women in an uncomfortable manner...ur a perv, grow up, and dont judge someone without judging yourself...

P.S. if you have any self-respect, you'll keep this message on your board for everyone to see....

I do not know who posted this, but it seems reasonable to suspect that it was someone running against us, possibly a member of the RAF. There have been previous instances where members of the KSA have been falsely accused of inappropriate behaviour, and complaints have been filed in the past with the Ombudsperson.

It concerns me that these kinds of allegations are being made. If video exists, then I call on it to be released to the Ombudsperson.

To date, no complaints of harassment or misconduct have been filed against any CSI member during the course of their terms in office at the KSA. There were instances of inappropriate jokes that got taken out of hand by many members of the KSA back in the summer of 2005 and I took appropriate actions to curb this behaviour – asking that everyone stop engaging in it (Attachment 18) by speaking at a meeting of the Board of Directors and by sending an e-mail out to all members of the Board of Directors and further ensuring that the e-mail was attached to both Board of Directors and Richmond Campus Council agendas.

Only one member of Richmond Campus Council continued exhibiting inappropriate behaviour and he was disciplined in late September 2005 after Richmond Campus Council discussed the issue and voted on a course of action, to write the member in regards to his behaviour and to clearly suggest ways of remedying that behaviour.

Regardless of whether or not the above allegations are true or not, it is clear that they have not been proven true or false by any official body within the KSA, within Kwantlen University College or by any external body. Allegations of this nature cannot be taken lightly, and should not be the subject of debate during an election campaign unless they have gone through and been resolved by appropriate channels of complaint. Spreading such information during an election can serve to have a material effect on the election and can even unduly harm and damage the reputation of individuals running in the election and should not be tolerated. Article 5 (4)(v) as well as Article 5 (8) of the old KSA Regulations used to state that:

*“Race, gender, sexual orientation, marital status, national or ethnic origin, religion, or age shall not be used in campaigning to either promote or oppose a candidate in an election. The Elections Committee shall disqualify any candidate found to have violated this principle in a KSA election.”*

It is interesting to note that this provision was removed from the “RAF 2K5” electoral regulations. Bylaw 1(3) also states that:

*“The Society recognizes the equality of all people and shall not discriminate on the basis of, but not limited to race, religion, gender, sexual orientation, nationality, language or socio-economic status.”*

**9. That little to nothing was done to ensure the integrity of the polling stations on each campus (complaint #8 and #9);**

As witnessed by students Johnny Woo, Cassandra Dieudonne, Christine McLellan, Robert Evans and Lisa Coan; as well as by video footage and photographs as taken by Mr. Woo and Ms. Dieudonne, it is clear that the integrity of the polling stations and the ballot boxes was not maintained during this election.

Complaint #8 (Attachment 19) and #9 (Attachment 11) also detailed buffer zone violations as witnessed by various individuals but the Committee dismissed them. However, it seems clear that these violations happened frequently throughout the election. Candidate Rob Mumford told me that he witnessed both members of the RAF and CSI Parties yelling “Vote RAF” and “Vote CSI” on the Surrey Campus, just outside the buffer zone, but if you were at the voting booth you had no problems hearing them. In talking to Security and members of Facilities in Richmond, they also expressed concern about how close people were to the polling stations throughout the duration of the entire election.

In running past elections, as CRO I would tell candidates that if they can see and hear the activity going on at the polling stations they are too close. There should be no reason for candidates to be anywhere within the vicinity of the polling booths. Ensuring the integrity of the stations is of paramount importance.

Section X Article 5 and Section X Article 8 of both the old and new KSA Regulations govern the conduct of campaigning and polling. A number of

inconsistencies occurred that violated many of the provisions under these sections, such as but not limited to:

- Voters having no place to actually privately sit and cast their ballot in secrecy – no cardboard voting booths were provided for use on either day of the election (at least in Richmond). Students were observed walking away from the main elections table, ballots in hand, to talk to candidates in both Richmond and Surrey – asking, ok, who do I vote for?
- RAF Candidates campaigning to candidates within the 5 meter buffer zone on Thursday, January 19, 2006 (witnessed by Robert Evans);
- In Richmond, the election workers left the ballot box open for an indeterminate amount of time (Attachment 20 – zipped file of pictures taken by Cassandra Dieudonne). During past elections, no election worker was given access to being able to open the election boxes, other than the metal flap on top of the boxes that covered the ballot slot of the boxes;
- RAF Candidates in Richmond were seen loitering around the poll booth throughout the day, and seemed very friendly with the elections workers – this is a violation of both the old and new KSA Electoral Regulations. In Richmond, they were all seen leaving together from the campus. When confronted about where they were going by other candidates, they said they were taking the box to an undisclosed location (which would have been to the CRO, as shown by Attachment 9); *and*
- RAF Candidate Kulvir Gill storing campaign materials in his office (this complaint was not resolved by the elections Committee and more than 72 hours passed between the time it was submitted and the time it was resolved – Attachment 21).

As such, it is clear that due to these violations, as well as the ruling party's inability to advertise the holding of an election at any point during this electoral process, that a material effect on the election did occur in favour of the RAF Party.

**10. That there has been no word on:**

- a. whether or not expense reports were submitted on time;**
- b. if they were reviewed by the CRO and the Elections Committee;**  
**and**
- c. if they were under the limits, which were either set by Council or the Committee.**

Both the old Regulations and the new "RAF 2K5" Regulations set guidelines regarding spending limits as follows:

Old Regulations	“RAF 2K5” Regulations
<p>1. <u>Spending Limits and Reimbursement of Expenses</u></p> <p>i. By December 1 of each year, the Elections Committee shall set an upper limit for campaign expenses that may be incurred during the Official Campaign Period for both campus-specific and multi-campus positions. This upper limit shall be re-evaluated each year.</p> <p>ii. By December 1 of each year, the Elections Committee shall set an upper limit for the amount of reimbursement candidates may receive for campaign expenses incurred during the Official Campaign Period. This upper limit shall be re-evaluated each year. The reimbursement limit need not be the same as the spending limit described in paragraph (i) above.</p> <p>iii. Material used during the Official Campaign Period shall be valued at market cost, which shall be set annually by the Elections Committee. The market cost of campaign material as well as the data used to determine market cost shall be posted in a conspicuous location by December 1. If additional market cost information is produced after December 1, it shall be posted as soon as it is available.</p> <p>2. <u>Declaration of Expenses and Application for Reimbursement</u></p> <p>i. To demonstrate compliance with the spending limits established pursuant to paragraph 6 above, every candidate must submit to the Elections Committee a statement of expenses incurred during the Official Campaign Period. The statement must be submitted to the Elections Committee no later than seventy-two (72) hours after the Official Campaign Period, and must be signed by the candidate and supported by itemized receipts. The submitted material may be audited at the discretion of the Elections Committee.</p> <p>ii. The Elections Committee shall assess each candidate the market cost or the actual cost, whichever is higher, for each declared campaign expenditure. A candidate's total assessment must not exceed the upper limit for campaign expenses set by the Committee in accordance with section 6 above, or the candidate(s) must be disqualified by the committee.</p>	<p>4. Spending Limits and Reimbursement of Expenses</p> <p>i. By <del>December 1</del> <b>January 1</b> of each year, the Elections Committee shall set an upper limit for campaign expenses that may be incurred during the Official Campaign Period <del>for both campus-specific and multi-campus positions. This upper limit shall be re-evaluated each year.</del></p> <p>ii. <del>By December 1 of each year, the Elections Committee shall set an upper limit for the amount of reimbursement candidates may receive for campaign expenses incurred during the Official Campaign Period. This upper limit shall be re-evaluated each year. The reimbursement limit need not be the same as the spending limit described in paragraph (i) above.</del></p> <p>i. Material used during the Official Campaign Period shall be valued at <b>receipt cost</b>, which shall be set annually by the Elections Committee. <del>The market cost of campaign material as well as the data used to determine market cost shall be posted in a conspicuous location by December 1. If additional market cost information is produced after December 1, it shall be posted as soon as it is available.</del></p> <p>5. <u>Declaration of Expenses and Application for Reimbursement</u></p> <p>i. To demonstrate compliance with the spending limits established pursuant to paragraph 6 above, every candidate or slate must submit to the Elections Committee a statement of expenses incurred during the Official Campaign Period. The statement must be submitted to the Elections Committee no later than <del>seventy-two (72)</del> <b>forty-eight (48)</b> hours after the Official Campaign Period, and must be signed by the candidate <b>or slate campaign manager</b> and supported by itemized receipts. The submitted material may be audited at the discretion of the Elections Committee.</p> <p>ii. The Elections Committee shall assess each candidate <del>the market cost or the actual cost, whichever is higher, for each declared campaign expenditure</del> <b>or slate for actual paid cost</b>. A candidates total assessment must not exceed the upper limit for campaign expenses set by the Committee in accordance with section 6 above, or the candidate(s) must be disqualified</p>

<p>iii. A candidate wishing to receive reimbursement for campaign expenses pursuant to paragraph 6(ii) above must submit to the Elections Committee, no later than seventy-two (72) hours after the Official Campaign Period, an application for reimbursement signed by the candidate.</p> <p>iv. Candidates shall be reimbursed for each of their actual expenditures up to market cost, subject to the limits established in section 6 above. Their total reimbursement, including their reimbursement for minor supplies in accordance with paragraph (v) below, shall not exceed the limit set in accordance with paragraph 6(ii) above. Reimbursement shall be made only for expenses incurred during the Official Campaign Period and only for expenditures on forms of campaigning permitted.</p> <p>v. Minor supplies (tape, staples, etc.) as determined by the Elections Committee need not be declared on the statement of expenses, but may be claimed on the application for reimbursement. If claiming reimbursement for these minor supplies, the candidate must submit receipts for them. Reimbursement for minor supplies will be made only for supplies purchased during the Official Campaign Period.</p> <p>vi. Where candidates incur expenses jointly as members of a slate, the expenses shall be divided equally amongst them. No other distribution of jointly incurred expenses shall be permitted.</p> <p>vii. If an organization spends money on campaign materials endorsing one or more candidates, the money so spent shall be counted as part of that candidate's expenses when determining whether the candidate remained within the campaign spending limits, but the candidate shall not be eligible for reimbursement for such expenses.</p> <p>viii. Only candidates receiving ten percent (10%) of the votes cast for a position, excluding spoiled votes, shall be eligible for reimbursement of campaign expenses.</p>	<p>by the committee.</p> <p>iii. <del>A candidate wishing to receive reimbursement for campaign expenses pursuant to paragraph 6(ii) above must submit to the Elections Committee, no later than seventy-two (72) hours after the Official Campaign Period, an application for reimbursement signed by the candidate.</del></p> <p>iv. <del>Candidates shall be reimbursed for each of their actual expenditures up to market cost, subject to the limits established in section 6 above. Their total reimbursement, including their reimbursement for minor supplies in accordance with paragraph (v) below, shall not exceed the limit set in accordance with paragraph 6(ii) above. Reimbursement shall be made only for expenses incurred during the Official Campaign Period and only for expenditures on forms of campaigning permitted.</del></p> <p>iii. Minor supplies (tape, staples, etc.) as determined by the Elections Committee need not be declared on the statement of expenses, but may be claimed on the application for reimbursement. If claiming reimbursement for these minor supplies, the candidate must submit receipts for them. Reimbursement for minor supplies will be made only for supplies purchased during the Official Campaign Period.</p> <p>iv. <del>Where candidates incur expenses jointly as members of a slate, the expenses shall be divided equally amongst them. No other distribution of jointly incurred expenses shall be permitted. <b><u>Members running together as a slate may have their expenses combined together and submitted by their campaign manager. The upper limit for spending shall then be calculated by adding the individual amounts allowed for each individual to come to an upper limit for the slate as a whole.</u></b></del></p> <p>v. <del>If an organization spends money on campaign materials endorsing one or more candidates, the money so spent shall be counted as part of that candidate's expenses when determining whether the candidate remained within the campaign spending limits, but the candidate shall not be eligible for reimbursement for such expenses.</del></p> <p>vi. Only candidates receiving ten percent (10%) of the votes cast for a position, excluding spoiled votes, shall be</p>
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	eligible for reimbursement of campaign expenses.
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The two sections are fairly different but they share a number of commonalities:

- Statements must be submitted to the Elections Committee for review within a certain time limit after the close of polling;

From the committee meeting minutes that appear online, it appears that this topic was discussed briefly but no information is presented in the minutes for the scrutiny of all to ensure that they are indeed valid. The minutes simply state:

*“The committee has received every candidates and/or slate expense report and have deemed them all to be valid.”*

As has been illustrated in previous complaints, what candidates spend on an election has the ability to have a direct material effect on the election. The CRO in the Spring 2005 General Election provided a thorough breakdown of how each candidate spent during that election in his final report (Pages 8 – 10, Attachment 12). It does not make sense as to why this information was not provided here.

Furthermore, it appears that the spending limits were dramatically increased for this election, but it has not been shown who authorized the increase. As per the Regulations, the Elections Committee is the authority with the ability to set the limits, but to date; no minutes have been provided to show that they considered this question in December 2005.

I would further argue that Council would not be the appropriate body to set the spending limits or otherwise influence what level the limits should be at because many Council members were incumbents in this election, with guaranteed sources of income from the Kwantlen Student Association (i.e. they could set an extraordinarily high amount for spending limits, and know that they can simply spend one or two KSA paycheques on their campaign in order to ensure victory).

It is very important that candidates know who set the spending limits for this election and that they know how much various candidates and slates spent. This information should be made public immediately by the CRO and the Elections Committee.

**11. That members of the RAF have already taken office when the results have not yet been made final; *and***

On Thursday, January 26, 2006, Mohammed Kallas phoned me at about 8:00pm. He was in the Richmond Campus Council office, where as Speaker of Council he usually works to prepare agendas, etc. He noted that the office

was cleaned up and that hours had been posted on the door, listing the names of people he did not recognize (with the exception of Kulvir Gill).

This concerned me and I asked him if he had a camera on him to take a picture of it but he didn't, and actually had to leave because his family had arrived to go. I then decided to go to Richmond myself to take a look at this and I found that what Mohammad said was true, and I videotaped what was on the door.

The representative's office was rearranged, with items left out in the open, unsecured (such as the X-Box, which cost the KSA around \$1,000 to purchase). All posters in the windows had been taken down including the Ombudsperson contact information poster, and all the LGBT posters. New couches were in the KSA lounge, and many items were missing (coolers, BBQ supplies, shelving). The red trolley cart was left out in the lounge, out in the open, with some of the shelving folded up and on top of it. Some older couches were piled on top of each other, and the copier had been moved to a corner, blocking access to the public pay phone that is supposed to be available for use by students who are hard of hearing. More prizes (bunnies for a spring talent show) appear to be missing. Boxes of *Sexuality & U* supplies were found left lying in the lounge. The individual trays that former campus council members had to store current work on projects and any other personal items that they may wish to leave in the office between shifts were all empty.

Section X, Article 11 of both the old KSA Regulations and the new "RAF 2K5" Regulations governs the counting of ballots and the release of results. The results have been unofficially announced, however they have not yet been declared official by the CRO and cannot be declared official if there are any outstanding complaints filed with the Ombudsperson, which there are.

In the past, this kind of action has been labeled as a serious offence and candidates engaging in such inappropriate behavior have been disqualified, in fact entire slates have been disqualified (Pages 10 – 11, Attachment 12 – Spring 2005 General Election Final Report). The CRO for that election stated:

*"On the evening of 27 April 2005, it came to the attention of the C.R.O. that persons acting on behalf of the R.A.F. Party including Aaron Takhar and working in cooperation with Kwantlen University College (KUC) staged what can only be seen as an attempted take over of the KSA offices.*

*This action was taken without any authorization whatsoever. It demonstrates a total lack of respect for the rules under which the Society operates. It has exposed the KSA to incalculable harm and was an attempt to encourage KUC to interfere in the internal affairs of the KSA.*

*The R.A.F. Party essentially declared themselves elected without waiting for the C.R.O. to complete his report. This shows a blatant disregard for the election rules.*

*This action is probably the ultimate campaign violation. It is impossible to imagine that the R.A.F. Party leadership is capable of following any of the Societies rules. **Therefore, pursuant to the C.R.O.'s authority under the Regulations to conduct the election, all R.A.F. Party candidates are disqualified.***"

Even though the report of the CRO for the Spring 2005 General Election was ultimately deemed invalid due to the absence of an Elections Committee, the thought processes and reasoning behind the decisions had been sound and had a Committee concurred with such decisions they most likely would not have been thrown out.

As such, until all complaints have been dealt with and processed by the Ombudsperson, no candidate shall have the authority to assume office by beginning to perform office hours, handle Society assets and expend monies of the Society’s budget. In fact, it concerns me that no meeting of the old Richmond Campus Council has been officially called since October 2005, and as such, where did Mr. Gill (or others) get the funds required to purchase the new couches - was this money moved by Council or by RCC?

Any candidate and their slate that have been found to have taken office before the results have been made official should be thrown out of this election, regardless of how many votes they got. Rules exist to be followed – not to be ignored.

**12. That it appears the process for dealing with complaints is either not understood by the CRO or is deliberately not being followed by the CRO.**

In the CRO’s e-mail to all candidates (Attachment 2) he states:

*“Attention: All election committee rulings have been posted online as of 8pm January 26. All complaints and responses can also be viewed. Please be advised that the deadline for appeals to the ombudsperson, if necessary, is January 29 at 8pm. The deadline for the ombudsperson to respond to all complaints is February 1. After the ombudsperson is finished I shall release a final report on the election.*

*Thank you to all candidates!*

*Cheers,*

*Amar Randhawa”*

The Regulations state:

Old Regulations	New “RAF 2K5” Regulations
<p><b><u>Article 10. Counting of Ballots and Release of Results</u></b></p> <p>5. <u>Presentation of Results</u></p> <p>i. The Chief Returning Officer shall prepare a written report on the election or referendum, including the results, to be presented to Council once any complaints or appeals pending before the Elections Committee have been ruled on in accordance with Article 11 below.</p> <p>ii. As soon as the Chief Returning Officer’s report is presented to Council, the results shall be official</p>	<p><b><u>Article 10. Counting of Ballots and Release of Results</u></b></p> <p>4. Presentation of Results</p> <p>vi. The Chief Returning Officer shall prepare a written report on the election or referendum, including the results, to be made public, once any complaints or appeals pending before the Elections Committee have been ruled on in accordance with Article 11 below.</p> <p>vii. As soon as the Chief Returning Officers report is <del>presented to Council</del> <b>made official</b>, the results shall be</p>

<p>and binding upon the Society. A resolution of Council to receive or approve the report is not required for the results to be binding. Once the results are binding, the Chief Returning Officer shall ensure they are posted publicly.</p> <p>iii. If Council has been notified in writing by the Ombudsperson that an application to appeal a ruling made by an Election Committee has been presented to the Ombudsperson, then Council shall not hear the Chief Returning Officer's report until the Ombudsperson has reported his or her findings to Council.</p> <p>iv. The Ombudsperson, when considering an appeal pursuant to paragraph (iii) above, shall render a written report to Council no later than seventy-two (72) hours after receiving a written appeal application of a decision. Council must hear the Ombudsperson's report, and consider any motions presented in said report, before hearing the formal results from the Chief Returning Officer. The Ombudsperson may dismiss the appeal, or may recommend any reasonable remedy if such is appropriate, including the disqualification of a candidate, the re-running of an individual position via by-election or the re-running of the entire election. Notwithstanding any other Regulation, Council shall have the authority to take any concluded action recommended by the Ombudsperson.</p> <p>v. In the case of a tie in an election, the winner shall be decided by the toss of a coin, such coin toss to be conducted by the Chief Returning Officer in the presence of the tied candidates and one witness for each of the tied candidates.</p>	<p>official and binding upon the Society. A resolution of <del>Council</del> <b>the Board</b> to receive or approve the report is not required for the results to be binding. Once the results are binding, the Chief Returning Officer shall ensure they are posted publicly.</p> <p>viii. If <del>Council</del> <b>the Board</b> has been notified in writing by the Ombudsperson that an application to appeal a ruling made by an Election Committee has been presented to the Ombudsperson, then <del>Council shall not hear the Chief Returning Officer's</del> <b>the CROs report shall not be made public</b> until the Ombudsperson has reported his or her findings to <del>Council</del> <b>the Board</b>.</p> <p>ix. The Ombudsperson, when considering an appeal pursuant to paragraph (iii) above, shall render a written report to <del>Council</del> <b>the Board</b> no later than seventy-two (72) hours after receiving a written appeal application of a decision. The Board must hear the Ombudsperson's report, and consider any motions presented in said report, before hearing the formal results from the Chief Returning Officer. The Ombudsperson may dismiss the appeal, or may recommend any reasonable remedy if such is appropriate, including the disqualification of a candidate, the re-running of an individual position via by-election or the re-running of the entire election. Notwithstanding any other Regulation, <del>Council</del> <b>the Board</b> shall have the authority to take any concluded action recommended by the Ombudsperson.</p> <p>x. In the case of a tie in an election, the winner shall be decided by the toss of a coin, such coin toss to be conducted by the Chief Returning Officer in the presence of the tied candidates and one witness for each of the tied candidates.</p>
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As such, it appears that the Ombudsperson would have to report her findings to the Board of Directors, and in the past this has meant at an official meeting of the Board of Directors as properly called and convened as per the notice requirements contained in the KSA Bylaws and Regulations. I would argue that this would be the case here and would ask that the Ombudsperson clarify this point. Also, I cannot find any Bylaw or Regulation that requires the Ombudsperson to submit her report within 72 hours of receiving her complaints (at least not based on the Regulations that are posted online – Attachment 22).

Finally, I question the validity of the changes made by the KSA to this section of the Regulations. Given the Board of Director's authority in calling an

election as governed by the KSA By-laws, would the results not be official until presented to the Board of Directors – regardless of whether or not there are complaints outstanding with the Ombudsperson? It seems fishy to allow the CRO the authority to simply declare the results official, on his own volition. This change seems to seek to usurp the power vested with the Board of Directors in overseeing at arms length, the conduct of all elections and referenda. I would ask that the Ombudsperson comment on this particular change.

Finally, all complaints as filed by myself have been posted on the KSA website revealing my personal address and phone numbers to anyone visiting the KSA website. Is this information not protected under the Freedom of Information Act? Does the KSA not have a responsibility to ensure that this information is protected and not open to potential abuse by individuals visiting the KSA website?

As such, given the severity of the various complaints already submitted to the Ombudsperson regarding various electoral issues, I call into question the validity of the entire Spring 2006 General Election.

I hope the Ombudsperson will be able to rule on this as well as all other complaints regarding the Spring 2006 General Election in a full formal report available to all students covering all of the issues and investigations behind all of the submitted complaints – both macro and micro (that is those that deal with the validity of the entire election on a macro level, as well as with various specific incidents that have occurred on a micro level). I know this seems unusual, but these are unusual times at the KSA and ensuring that a valid election has been called and run is of the utmost importance. Especially should the outcome of this election again end up in the Supreme Court of British Columbia as it did in 2005 (where the Judge in that case agreed with the findings and conclusions of the Ombudsperson at that time).

Respectfully submitted,

Steven H. Lee, 100-025-323

Witnesses / Persons Privy to the Incident:

\_\_\_\_\_  
Student Name of Witness No. 1 (Please Print)

\_\_\_\_\_  
Student Number of Witness No. 1 (Please Print)

\_\_\_\_\_  
Signature of Witness No. 1

\_\_\_\_\_  
Student Name of Witness No. 2 (Please Print)

\_\_\_\_\_  
Student Number of Witness No. 2 (Please Print)

\_\_\_\_\_  
Signature of Witness No. 2

\_\_\_\_\_  
Student Name of Witness No. 3 (Please Print)

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Student Number of Witness No. 3 (Please Print)

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Signature of Witness No. 3

\_\_\_\_\_  
Student Name of Witness No. 4 (Please Print)

\_\_\_\_\_  
Student Number of Witness No. 4 (Please Print)

\_\_\_\_\_  
Signature of Witness No. 4

\_\_\_\_\_  
Student Name of Witness No. 5 (Please Print)

\_\_\_\_\_  
Student Number of Witness No. 5 (Please Print)

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Signature of Witness No. 5

\_\_\_\_\_  
Student Name of Witness No. 6 (Please Print)

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Student Number of Witness No. 6 (Please Print)

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Signature of Witness No. 6