


October 31, 2005

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Paul Browning, Ombudsperson
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Phone: (604) 599-2303

Re: Acquisition of Feature Film License

Dear Mr. Browning,

This official request may serve to act as an addendum to the request for an official investigation into “KSA Spending & Budget Authority Violations” that I sent to you on October 3, 2005.

As you may know, I campaigned to bring a recreational-use based feature film licence to Kwantlen when I ran for Richmond Campus Director in the fall of 2004. The following is a summary of the efforts of the Langley Campus Director, Stafford Richter and myself to acquire a licence:

- In January, 2005 the KSA Council approved an amendment to the 2005 budget proposal to purchase a feature film licence from Audio-Cine Films (<http://www.acf-film.com/>), based on a proposal that Stafford and I had put together in the fall of 2004 and brought forward for approval at that time;
- In February 2005, I sent a letter (Attachment Number 1) to Audio-Cine Films outlining the KSA's desire to begin negotiations for acquiring a feature film licence. Before sending this letter, I ran it by Penny Minor, the KSA's General Manager and Laura Anderson, the Chairperson of the Executive Board;
- Due to the drawn-out spring election, and a lot of phone-tag that took place during contract negotiations between Audio-Cine Films and myself regarding the terms of the feature film licence contract agreement, the

final draft contract for the feature film licence didn't arrive for signing by the KSA until June 2005;

- At this time, as can be shown on page two (2) of the June 20, 2005 minutes of the Executive Board of Directors meeting (Attachment Number 2), members of the Reduce-All-Fees (RAF) Party refused to sign the contract as they were worried that the film licence was nothing more than a cash grab. They instructed the Langley Campus Director, Stafford Richter and myself to bring back more information on the licence, which we did do (see Attachment Number 3 for copy of the full proposal), distributing the proposal by e-mail (see Attachment Number 4) to members of the KSA as well as in person at the July and August meetings of the Main KSA Council;
- At the August 12 meeting of Richmond Campus Council (as can be shown on Page 10 – Attachment Number 5) Aaron Takhar, the Director of Finance said he had forwarded the film licence proposal to Joey Atwal, the Director of Events and Student Life for further consideration. To date, no feature film licence agreement has been signed;
- In October, the KSA received a bill from Audio-Cine Films regarding payment required for the feature film licence. Rolando Navarro informed me that this bill had been received and I noted that it was my understanding that the Executive Board was not in favour of acquiring the licence. In response, Aaron Takhar sent communication regarding the licence being disapproved by the KSA's Executive Board to Audio-Cine Films (Attachment Number 6). This was done in spite of the fact that none of the Executive Board meeting minutes posted online as of October 30, 2005 seem to exist showing any motion to cancel the acquiring of a feature film licence being made;
- More importantly, Mr. Takhar and the Executive Board never brought their decision not to sign the feature film licence agreement back to Council. This is in spite of the fact that Council (being the highest decision making authority in the KSA) had approved the acquiring of such a licence back in January 2005. Under the KSA Bylaws and Regulations, Council is the only decision-making body that has the power to reverse its own decisions. It is my understanding that the Executive Board cannot overrule a decision of the KSA Council.

To date, we have no idea where the money that was moved for the licence went as the licence line item of \$2,500 no longer appears in the budget and the line items that had money taken from to create a new licence line item never had their funding restored to them. To date, since taking office, the Director Of Finance has not brought any budget amendments of any kind to Council.

The proposal that was presented to Council in January, and later on in June 2005 illustrates how Campus Councils, Liaisons and Clubs of the Society could show recreationally show films on campus.

It was the intention of the architects of the film licence proposal to use the licence as a means of utilizing the large, widescreen televisions available in the lounges and conference centers for use across the four Kwantlen campuses by legally showing movies on campus. Based on my own extensive private personal feature film collection, the KSA could have had free access to more than 600 titles under an agreement with Audio-Cine Films. Audio-Cine also maintains a searchable database regarding the films that can be shown under the distributors represented by their organization as outlined in my proposal.

In a way, I personally feel stupid and ashamed of the KSA because of this situation. Here's why:

- I, in good faith, negotiated an agreement with Audio-Cine Films, as directed to do so by the KSA Council when it approved the plan Stafford and I had brought forward in January 2005. At that time it was my understanding that the approval of the licence was a done deal, and the Executive Board would have to duly follow through with signing an agreement for a licence unless there was something inherently wrong or with the final agreement itself or something of such concern that the Executive contract signing authorities would wish to alert Council before signing;
- I followed the rules for getting something like this done, and I arranged to have the contract brought to the new Executive Board to sign, and they failed to sign it and failed to bring that decision to Council for approval as per the KSA By-Laws and Regulations;
- They failed to bring back budget amendments to reallocate the \$2,500 which was moved from numerous other line items to create a new "Feature Film Licence" line item;
- The letter sent to Audio-Cine Films in October 2005 disputing the licence in its entirety could leave the KSA open to legal liability, as in the eyes of Audio-Cine Films it seemed the deal was done as money was passed at Council. Mainly this would be the case should Audio-Cine Films learn that the KSA's decision making structure was not followed;
- In the end, the hours and work that Stafford and myself put into this project seem to have been wasted, and the KSA's relationship with Audio-Cine Films is undoubtedly damaged as a result.

Also, I feel that it is very important to note that any recreational screening of films on campus (in any of the KSA lounges or in any Kwantlen-occupied space) without a feature film licence is illegal under the Canada Copyright Act and the KSA knows this.

Finally, a similar situation has arisen over the acquisition of a \$10,000 portable stage for use at KSA events as follows:

- Money was moved for the acquisition of a stage based on a proposal brought forward by myself;
- Plans to finalize the purchase the stage were acted on by myself in the Spring of 2005 and there was the possibility that the price of the stage could go up due to some customization that would need to be done to ensure the stage could be transported easily across all four Kwantlen campuses, but these plans were delayed due to the election;
- Upon the sitting of the new elected officials I thought it prudent to bring the proposal back to them for their consideration, to ensure that funding was still available in the capital project line item (as it seemed a lot of spending had taken place early in the new term, with the purchase of new furniture, blinds, etc.); *and*
- In spite of regular inquiries into whether or not the acquisition of the stage could be finalized, it seems the Executive Board unilaterally decided not to proceed with the acquisition of the stage as they did in regards to the feature film license – again this was done without having the decision ratified by Council.

The above two situations seems to clearly illustrate further the Executive Board's inability to follow the approval procedures as outlined in the KSA Bylaws, Regulations and Procedures. I hope you will be able to investigate these two instances to find out:

- A. where the money was reallocated in each instance; *and*
- B. why their decision not to proceed with the acquisition of the above items was not brought forward to Council for deliberation and final approval.

Respectfully submitted,

Steven H. Lee, 100-025-323