

November 30, 2005

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Re: Legitimacy of KSA Special General Meeting on November 29, 2005

Dear Mr. Browning,

This is an official request for:

1. a formal investigation into the legitimacy of the Special General Meeting (SGM) held by Members of the Kwantlen University College Student Association (KSA) on Thursday, November 29, 2005 at Noon in the Surrey Campus Conference Center;
2. an official written report, summarizing all information gathered as a result of your investigations, to be published and distributed to all appropriate persons by no later than the next regular meeting of Council; and
3. a statement within the official written report on whether or not the SGM was legitimately held under the current requirements for conducting Special General Meetings under the Society Act of BC as well as the KSA's Bylaws, Regulations and Procedures.

Please investigate the following:

1. Notice of Meeting:

A. SGM CALLED BY PETITION SERVED ON KSA

Article 3 (5) of the RAF2K5 KSA Bylaws allows students to petition to hold a Special General Meeting, by stating:

“The VP-External, within thirty (30) days, shall call a Special General Meeting of the Society upon:

- (i) a Two-thirds (2/3) Resolution of Council; or
- (ii) being served a petition stating the purpose of the General Meeting, duly signed by two hundred and fifty (250) Members or ten percent (10%) of the Members, whichever is less.”

On November 14, 2005, Kwantlen student Christine McLellan duly served a petition to the main office of the Society located on the Surrey Campus. The Director of Operations, Mat Huff, was the person who received the petition.

Specifically, the petition had:

- i. approximately three hundred fifty (350) to four hundred (400) student Member signatures on it by students from across all four (4) Kwantlen campuses; *and*
- ii. stated the general reasons for requesting the meeting, which included but was not limited to approving new democratic bylaws and removing individuals from office among other items of business.

At the November 18, 2005 meeting of Council, a motion was moved by Harvey Mann and seconded by Jaivin Khatri that read (and I paraphrase):

“BIRT Council direct Pavan Bassi to cancel the room booking for the November 29, 2005 Special General Meeting since the proper procedure was not followed and the VP-External did not receive the petition to call the Special General Meeting.”

The RAF Council subsequently carried this motion at the meeting. Through the motion, they claimed the meeting was not in order because the petition was not served to the VP-External. The petitioners of this Special General Meeting refute this however because:

- i. The petition was duly delivered to the main office of the Society on November 14, as required by section 12 of the Society Act. Section 12 states:

“Service of documents

12 A document may be served on a society by:

(a) leaving it at, or mailing it by registered mail to, the address of the society as filed under this Act, or

(b) personally serving a director, officer, receiver manager or liquidator of the society, or, in the case of an extraprovincial society, the attorney.”

As per the Society Act, Mat Huff, being a director of the Society was allowed to accept the petition when it was served on the KSA. I would argue that both the 'old' bylaws and the 'new RAF2K5' bylaws might actually contravene section 12 of the Society Act of British Columbia, by insisting that a document be served on a specified individual.

- ii. Furthermore, a number of other issues exist with this specific issue, including:
 - b. the new RAF2K5 Bylaws have not been posted online at the official website of the Society. Not having the properly approved rules of the Society in an easily accessible form for students makes it difficult for students to know what procedures they should be following;
 - c. the contact list for elected officials has many errors on it, making the document questionable and unreliable. In addition, messages left with people in the KSA go unreturned;
 - d. at the September 29, 2005 Special General Meeting, the "RAF2K5" motion package did not specify who would hold the new positions – therefore one would assume the old positions would stand until the new positions were filled during the Spring 2006 General Election;
 - e. finally, there have been clear indications that the KSA has been going by the old Executive Board and Campus Council structure, as proved by:
 1. Aaron Takhar signing Mat Huff's impeachment form as "Director of Finance and Chairperson of the Executive Board;" *and*
 2. Campus representatives still have a vote at Council, the Society's Board of Directors; *and*
 - f. Therefore, based on paragraphs (iii) and (iv) above, it would be safe to assume that individuals would continue to hold their old positions and would be bound to uphold the job descriptions of their old positions.

This leads to the question of who do you deliver the petition to? It may be Jaivin Khatri, it may be Mat Huff, and it may be nobody. With the RAF seeming to honour parts of the old KSA setup and their new setup, it can be very difficult for outsiders to know what is going on at the KSA.

B. ISSUE ON WHETHER OR NOT PETITION CAN SPECIFY LOCATION / TIME OF SPECIAL GENERAL MEETING

It has been stated that Bylaw 3 (6) states that:

“A petition requisitioning a General Meeting pursuant to Article 3(5) above may not specify the location for such a meeting. The Board shall, by Resolution, decide the location of the General Meeting. Regardless of whether or not the requisitionists stipulated a date and time for the General Meeting, VP-External shall have the authority to set the date and time of a General Meeting, provided however that such date and time:

- i. are within the regular business hours of the Society’s main office; and
- ii. occur on a day in which Kwantlen University College is holding regularly scheduled classes.

In the event that a requisitioned General Meeting called within thirty (30) days of the delivery of a petition, as stipulated in Article 3(5) above would violate this article, VP-External shall postpone the General Meeting. The VP-External shall then call the General Meeting for the earliest possible date that would comply with this article and allow the full notice period, as required by these Bylaws, to occur during days when Kwantlen University College is holding regularly scheduled classes.”

It clearly states that a petition “may not specify” the location for such a meeting. It further states the Board shall decide the location even though the next sentence contradicts the previous statement by noting that:

“Regardless of whether or not the requisitionists stipulated a date and time for the General Meeting, VP-External shall have the authority to set the date and time of a Geenral Meeting.”

As such, this section seems to contain two (2) contradictory statements which leads to a number of concerns about the wording of this section, as follows:

- i. I fear that such a clause gives too much power to the Board of Directors over when and where a Special General Meeting can take place. Should the petitioners of a Special General Meeting wish to have a meeting on a certain campus, within a certain timeframe, then that is their right to request it as the Membership is supposed to be the highest decision making authority in the Society. Under the “RAF2K5” Bylaws, it seems that things have been reversed with the Board of Directors being the highest decision making authority; *and*

- ii. Also, the contradictory nature of this section again leads to the question of who has the authority in this situation. Is it:
 - a. the Board (which at this point seems to be the old Council)? *or is it*
 - b. the VP-External (which is technically vacant, and does not have the same duties as the old Director of External Affairs position)? *or is it*
 - c. the petitioners (especially in cases when the petitioners have the signatures of 10% or more of the student population and section 58 of the Society Act kicks in)?

As such, the people who received the petition obviously thought it was in order, as the space was booked for the meeting throughout the notice period up until the morning of November 28, 2005. But it is clear that the contradictory nature of Bylaw (3) 6 seems to have left even people within the KSA not knowing or understanding the requirements laid out under the new RAF2K5 Bylaws. As such, it seems clear that the petitioners of this Special General Meeting did their best to organize it as per the Society's Bylaws.

Furthermore, the following points should also be considered:

- i. Just like Aaron Takhar confused people by not orienting them on how the KSA worked when they took office, it seems that he is again keeping people confused by not providing any explanations for what rules are currently being followed by the KSA;
- ii. Takhar's lack of being able to provide clear explanation and information on how the KSA works should not be rewarded; *and*
- iii. Nor should Takhar or others in the KSA be able to use the unpublicized "RAF2K5" Bylaws, which have not been either internally or publicly posted or distributed by any means, as a means for punishing people who are legitimately trying to organize opposition to KSA activities by organizing a Special General Meeting.

Finally, if the KSA is so unorganized internally that they cannot process a petition that it receives properly, then that is not the fault of the petitioners and they should not be punished for it under any circumstances.

C. SERVING OF NOTICE

Article 3(7) of the KSA "RAF2K5" Bylaws states that:

"Notice of a General Meeting shall be given to the members of the Society by:

- i. affixing posters, no less than fourteen (14) clear days before the date of the General Meeting, no smaller than 8 by 11 inches, on each of the Kwantlen University College campuses, provided however that each such campus shall receive no less than eight (8) such posters which must be affixed in conspicuous places around the campus; and
- ii. the placement of an advertisement, no less than fourteen (14) clear days before the date of the General Meeting, within the student newspaper or such other recognized campus media as determined by Council.”

Also, Article 3(8) of the KSA “RAF2K5” Bylaws states that:

“Notice of a General Meeting must specify the place, day and hour of the General Meeting, and, in the case of special business, the general nature of that business. The accidental omission to give notice of a General Meeting to, or the non-receipt of a notice by, any of the members entitled to receive notice does not invalidate proceedings at that General Meeting.”

By Postering...

On the morning of November 15, 2005, twenty-five (25) posters (Attachment 1) were posted on each campus giving notice to the student body of the intent to change the bylaws, at a Special General Meeting. The majority of these posters were posted by Noon. All postings were tracked via a tracking sheet, and photos of each poster were taken. Overall, it appears that the majority of the posters hung remained hung over the two-week period, as follows:

- i. As of November 28, 2005, 19 of the 25 posters hung in Newton remained hanging;
- ii. As of November 28, 2005, the petitioners had not been able to make it to Langley to check how many posters remained hanging;
- iii. As of November 28, 2005, 17 of the 25 posters hung in Richmond remained hanging; *and*
- iv. As of November 28, 2005, 16 of the 25 posters hung in Surrey remained hanging.

Not every poster that people hang remains hung. I believe that the missing posters most likely disappeared through natural attrition – I.e. posters being moved / misplaced by other people who are posting posters. Considering the majority of the posters hung seemed to remain hung, we do not believe or suspect that the missing posters are the result of any kind of sabotage. Furthermore, at all times it appears that the

posters that remained hung during the notice period remained above the required eight (8) posters.

By Campus Publication...

The petitioners E-mailed the Kwantlen Chronicle asking them to post notice of the meeting in their next issue, should it print before the November 29, 2005 meeting. Unfortunately, the Chronicle did not post the ad, but they did do an article on the Special General Meeting, which appeared in the November 28, 2005 issue of the paper (Attachment 2).

The petitioners also E-mailed the First Year Experience Website organizers to ask them to post notice of the meeting on the Kwantlen “what’s happening events” website. Ultimately, information on the meeting was posted on the Kwantlen University College First Year Experience website (Attachment 3).

By Leaflets...

At least 500 hundred leaflets were distributed on the Surrey and Richmond campuses (Attachment 4).

By On-Campus Information Tables...

An information table on the Richmond Campus was setup by volunteers during the week of November 21 to November 25, 2005 to inform students about the Special General Meeting. Volunteers included Christine McLellan, Ivan Wangsaseputra and Cassandra Dieudonne among others.

By Internet Website...

Finally, all SGM advertising encouraged students to visit <http://ksa.steveleenow.net/>. A copy of the proposed Bylaws was posted online and eventually an agenda for the meeting was posted. The site had more than 3217 page views during the month of November (Attachment 5), and it is safe to say that about a one-sixth of these were visits to the Kwantlen section of the site.

Finally, it has been claimed that people within the KSA did not know about the Special General Meeting. If knowledge did not exist, the motion to cancel it as moved at the November 18, 2005 Council meeting would not have occurred. Furthermore, on Thursday, November 17, the Executive Advisor / Policy Analyst for the Executive Board of Kwantlen University College Student Association e-mailed Steven Lee requesting information on the Special General Meeting (Attachment 6). So, it seems clear that people knew about the meeting.

Change in Meeting Location...

On Monday, November 28, 2005, Aaron Takhar arranged to have the space that was booked for the General Meeting unbooked and got Mr.

Derek Francis, VP Student Services to confirm that the meeting was not in order and to request that Mark Bell, the Head of Security be on the Richmond Campus to ensure that the Conference Center was not used.

As such, the petitioners decided to hold the meeting in the KSA Lounge, which the Institution has clearly stated in the past it has no control over in terms of who uses it. Subsequently, although the institution noted they would stop any meeting from occurring in the Rotunda, the hallways or the Cafeteria, the institution made no attempts to interfere with the organization of the meeting inside the common space of the KSA Richmond lounge.

The petitioners placed signs on the doors of the Conference Center as well as on bulletin boards across campus noting that the meeting location had been changed to the lounge. A number of volunteers spoke to students in key areas across campus – in classrooms, outside and inside the Cafeteria, in the Rotunda, at entrances to the University College Campus, in the Computer Labs and outside the KSA lounge to tell people where the meeting was occurring.

Quorum was achieved, as per Bylaw 3(9) and the meeting continued on time, as planned.

2. Conduct of November 29 Special General Meeting

Article 20 (1) of the KSA “RAF2K5” Bylaws states that:

“The rules of order prescribed in the latest edition of Roberts Rules of Order shall apply at all meetings of the Society, to the extent of their consistency with the Act, these Bylaws and the Regulations. At any time, however, a Two-thirds (2/3) resolution of the Board may suspend use of these rules of order for a specified length of time. At any time a Two-thirds (2/3) resolution of any other body within the society may also choose to suspend these rules for a specific length of time for their respective meeting only.”

In organizing their meeting, the petitioners were careful to ensure that their meeting followed Roberts Rules of Order by:

- a. Ensuring Quorum was present throughout the meeting. Bylaw 3(9) of the KSA “RAF2K5” Bylaws states that:

“A quorum for a General Meeting of the Society is achieved where the number of Members present at such a meeting is equal to or greater than ten percent (10%) of the total Members of the Society, or fifty (50) Members, whichever is lesser. Under no circumstances shall quorum be less than three (3) Members.”

Article 3(11) allows for up to sixty (60) minutes to pass to achieve quorum. Quorum was achieved online, as represented by the minutes for the Special General Meeting, as taken by Titus Gregory (Attachment 7). The meeting

opened with about 75 – 80 students present. At one point, quorum was lost and it was resolved that a recess be taken in order to try and again achieve quorum. Quorum was regained and the business of the meeting finished.

- b. Having Titus Gregory, the Simon Fraser Student Society Chairperson, to Chair the meeting. This is provided for by Bylaw 3(3) of the KSA “RAF2K5” Bylaws states that:

“The President, or such other individual as chosen by a Resolution of the Board, shall preside as chair for all General Meetings of the Society. Notwithstanding this clause, the membership may appoint a chair from among the Members present, by an Ordinary Resolution.”

Firstly, there currently is no serving President at the KSA. Under the old Bylaws, the Chairperson of the Executive Board would chair General Meetings, however the petitioners were concerned that having Aaron Takhar chair the meeting may not be proper, as he was a central subject of concern and may not have been able to be unbiased, as one of the motions even sought to remove him. Mr. Gregory has no direct connection or involvement with the day-to-day activities of the KSA and was also very familiar with Roberts Rules of Order and Parliamentary Procedure. As such, an Ordinary Resolution was proposed by the petitioners and adopted at the meeting to have him Chair.

- c. The Chairperson clearly explained how the meeting was to be conducted and answered procedural questions throughout the meeting. The Chairperson allowed for debate and questions and answers during the meeting on all motions moved. Kulvir Gill, who was the subject of being removed as a Director of the Society was also offered a chance to speak and defend himself but declined to do so (no other directors were present to defend themselves).
- d. The Chairperson properly took the vote. The petitioners arranged for there to be three-hundred (300) copies of the agenda (Attachment 7) printed to be given out to people in attendance at the meeting. There were also seventy-five (75) copies of just the proposed New Democratic Bylaws available, and fifteen (15) copies of a document that compared the old KSA Bylaws with the “RAF2K5” Bylaws and the proposed New Democratic Bylaws. These documents were also posted online at <http://ksa.steveleenow.net/> on November 14, 2005. There were minor amendments made to the proposed New Democratic Bylaws made but the changes were fairly minor and were documented on page 1 of the packages that were developed. Attendants who were Members of the Society eligible to vote also received a blue voting card (Attachment 7), with the word “YES” on one side, and the word “NO” on the other. When the vote was taken, the Chairperson would ask for all in favor, and people would hold up “YES” and a designated person would count. The counters were Leah Hilyer, student; Juergen Dankwort, Sociology teacher and another student, Samantha – (do not know her last name). The results of each vote were recorded in the minutes.

- e. The only motions that were discussed were those presented in the original petition as follows:
- i. Motion to adopt new bylaws;
 - ii. Motion to remove directors of the society; *and*
 - iii. Motion to restore membership rights of anyone who had rights taken away from them.

The agenda was drawn up by Christine McLellan with the assistance of Titus Gregory.

- f. The minutes were typed up later that day by Mr. Titus Gregory and immediately posted at <http://ksa.steveleenow.net/> .
- g. Later that afternoon, Lisa Coan, with the assistance of Titus Gregory, typed up the Special Resolutions on Form Ten (10), which were to be sent to Victoria. Johnny Woo, a director of the Society, signed duplicates of Form Ten (10) and they were mailed by Canada Post express post on the morning of Wednesday, November 30, 2005 by Steven Lee. Two (2) clean copies of the “New Democratic” Bylaws were also sent with the Special Resolutions.

Overall, in-spite of interference by both the Kwantlen Student Association and by Kwantlen University College, I believe that the petitioners and organizers of this Special General Meeting, acting in good faith to the best of their ability and on the basis of reasonable belief, properly called, served notice and conducted the Special General Meeting that occurred on November 29, 2005.

Video footage of the meeting also exists, as shot by student Rob Evans and at least one (1) or two (2) other students. I am currently in the process of trying to obtain the footage to make a DVD that you may have to review the conduct of the meeting, as you did for the September 29, 2005 Special General Meeting.

Again, it is my wish that the Ombudsperson formally investigate the Special General Meeting and produce a formal written report reflecting such investigation as well as a statement pertaining to whether or not the SGM as organized by the Membership of the Kwantlen University College Student Association (in consideration of the information available to them during the process of trying to organize the meeting) was legitimately held under the current requirements for conducting Special General Meetings under the Society Act of BC as well as the current KSA “RAF2K5” Bylaws, Regulations and Procedures.

Respectfully submitted,

Steven H. Lee, [REDACTED]