

DECISION OF THE DISCIPLINE, INTERPRETATION,
AND ENFORCEMENT BOARD

APPEAL AGAINST CHIEF RETURNING OFFICER'S RULING (VOTE 2003)

DATE:

Thursday February 13, 2003

D.I.E. BOARD MEMBERS PRESENT:

William McBeath, Chair

Lucas Lau

Jason Tobias

Vincent Tong

Perry Grewal

APPEAL DETAILS:

Appellant: Mat Brechtel

Respondent: Alexandra Taylor, Chief Returning Officer (CRO)

SUMMARY OF ALLEGATION AND RESPONSE:

According to the CRO, Mr. Brechtel violated the pre-campaigning period sections of Bylaw 2100 in his interview to CJSR, which aired at 5:00 p.m. on February 10, 2003. Mr. Brechtel has appealed the decision of the CRO, stating that in his opinion, the decision of the CRO should be overturned as no pre-campaigning took place, and hence there was no violation of Section 35 of Bylaw 2100.

DECISION:

Sections 35-37 of Bylaw 2100 outline the rules and regulations of "pre-campaigning". Section 124 of Bylaw 2100 outlines the rules and regulations of "violations and complaints".

It is the decision of D.I.E. Board that pre-campaigning did occur when Mr. Brechtel answered the CJSR interviewer's question. Mr. Brechtel was aware that answering the question might constitute a case of pre-campaigning, but nevertheless chose to answer the question.

D.I.E. Board felt that it was important to note that the response to the question was not given to an individual student, but to a media organization – CJSR. D.I.E. Board feels that in supplying an answer to this media organization, the distinct possibility existed that multiple individuals, including undergraduate students, may have heard Mr. Brechtel's answer and have been influenced by his comments. In this case, it is fortunate that the incident was confined to a limited number of people, but this was more through chance than any action on the part of Mr. Brechtel.

D.I.E. Board also believes that the agreement made between Mr. Brechtel and CJSR to transfer the responsibility of ensuring that Mr. Brechtel's comments were in compliance

with Bylaw 2100, sections 35-37 to the interviewer was not satisfactory. CJSR is not governed by Bylaw 2100, and hence cannot be assigned this responsibility.

D.I.E. Board wishes to stress to all candidates that it is a candidate's responsibility to ensure that they comply with all the requirements and regulations listed in Bylaw 2100. Candidates should err on the side of caution if confronted with possible breaches.

However, D.I.E. Board also takes into consideration the regulations listed in Section 124 of Bylaw 2100.

Section 124 states:

Where a breach has occurred, ***regardless of the cause or the intent of the parties involved***, and that breach has provided an unfair advantage to a campaign, the C.R.O. shall assigned a penalty that:

- a) fully counter-balances any unfair advantage gained
- b) penalizes the campaign for committing a violation
- c) is of the same type or character as the advantage which was gained

Once it is determined that a breach has occurred, as is the situation in this case, the C.R.O. is required to assign a penalty that fully counter-balances any unfair advantage gained. In this case, D.I.E. Board does not feel that the assigned penalty is appropriate to the level of the breach committed by Mr. Brechtel.

Therefore, D.I.E. Board has made the following decision:

The ruling of the Chief Returning Officer will be upheld, but the penalty for the committed breach will be reduced to a fine of ten (10) dollars.

The decision of the D.I.E. Board was unanimous.