

DECISION OF THE DISCIPLINE, INTERPRETATION,
AND ENFORCEMENT BOARD

ADAM KNISELY vs. THE VICE PRESIDENT (OPERATIONS AND FINANCE)

DATE HEARD: Thursday, November 18th, 2004

D.I.E. BOARD MEMBERS PRESENT:

Jamie Gruman, Chair

Mark Rogers

Alan Cliff

COMPLAINT DETAILS:

Applicant: Adam Knisely

Defendant: Alvin Law, Vice President (Operations and Finance)

SUMMARY OF ALLEGATIONS AND RESPONSE:

Councilor Knisely contends that the Vice President (Operations and Finance) acted illegally in failing to report budget alterations on July 27 and August 4, 13, and 23 at the Students' Council meetings immediately following the alterations, contrary to section 8(b)(v) of Bylaw 3100.

The Defendant acknowledges wrongdoing, but argues that this does not merit censure, based on the historical precedent of reporting budget alterations at the end of the year, which was the practice of the previous Vice President (Operations and Finance).

DECISION:

The Vice President (Operations and Finance) has a responsibility to ensure fiscal accountability to the members of the Students Union. Bylaw 3100's requirement for budget alteration reporting to Students' Council is a mechanism for the implementation of that responsibility.

This requirement demands that the Vice President (Operations and Finance) "report all budget alterations, excepting those alterations that were approved by Students' Council, to Students' Council at the next Council meeting following the alteration." The Defendant failed to report the budget alterations of July 27 and August 4, 13, 23 and 24 within the prescribed timeline. None of these alterations were approved by Students' Council. Therefore, the Discipline, Interpretation and Enforcement Board finds the Vice President (Operations and Finance) to be in violation of Section 8(b)(v) of Bylaw 3100.

RECOMMENDATION:

The D.I.E. board feels that in failing to comply with Bylaw 3100, the Defendant acted illegally under the financial regulations of the Students' Union. For this, D.I.E. board feels a mild reprimand is in order: it is the responsibility of the Vice President

(Operations and Finance) to be well versed in the relevant bylaws. However, for a host of mitigating reasons, the board has elected to refrain from issuing the censure sought by the Applicant.

Firstly, while the Defendant was undeniably wrong in his failure to report the alterations, his actions were not excessively unreasonable in light of the manner with which reporting had historically been dealt. That the previous Vice President could report all budget transfers from October to April in a single report on May 3, 2004 without qualm from Council indicates that section 8(b)(v) of Bylaw 3100 was not of great concern. The Defendant argued that he had been briefed by the outgoing Vice President to report transfers at the end of the year. While this does not excuse the Defendant, it indicates that his violation should not be treated with undue harshness.

Secondly, the Defendant was within his rights to initiate the transfers (with the exception of the Budget Committee's alterations, which were within the rights of that committee). As the transfers were legitimate, the Vice President was not acting in bad faith in failing to report. Further, that the transfers were legitimate and have not faced criticism from Council since being revealed demonstrates that little or no harm was done.

Thirdly, the Defendant immediately took steps to remedy the situation. This doesn't change the fact that he was wrong to begin with, but his immediate efforts towards rectification speak towards good faith.

Finally, and perhaps most importantly: the Applicant, primarily through failure to be in attendance at the hearing, failed to present convincing arguments for censure. The failure of the Applicant to contest the statements of the Defendant weighed heavily in the decision of the Board. As the case for harsh punishment was never demonstrated to the satisfaction of the D.I.E. Board, censure has been withheld.

The Discipline, Interpretation and Enforcement (D.I.E.) Board functions as the judicial branch of the Students' Union, and is responsible for interpreting and enforcing all Students' Union legislation. If anyone has any questions regarding the D.I.E. Board, feel free to contact the Chair, Alex Ragan, at ea@su.ualberta.ca.