

DECISION OF THE DISCIPLINE, INTERPRETATION,
AND ENFORCEMENT BOARD

STEVE SMITH vs. THE EXECUTIVE COMMITTEE OF THE STUDENTS UNION

DATE HEARD: Monday, March 14th, 2005

D.I.E. BOARD MEMBERS PRESENT:

Jamie Gruman, Vice Chair
Chris Stolfa
Justyna Hermen

COMPLAINT DETAILS:

Applicant: Steve Smith
Defendants: The Executive Committee of the Students Union

SUMMARY OF ALLEGATIONS & FACTS

The DIE Board met on Monday March 14th, 2005 to hear a complaint brought forward by Councillor Steve Smith based on allegations that the Students Union Executive (SU Exec) acted outside its delegated authority by operating “Juicy” without getting the necessary approval of Students Council.

The decision to operate “Juicy” was brought about due to legal difficulties and concerns surrounding the ongoing relationship between the former tenant who operated “Juice to Go” and the Students Union (SU). The lease granted to “Juice to Go” was terminated on March 2, 2005 and the tenant was subsequently evicted. There were many important consequences of this decision most important of which are the effects on the employees of “Juice to Go” who are students at the University of Alberta and who due to the eviction of the tenant, faced the potential consequence of being unemployed. Primarily due to this concern and also the concern to mitigate potential lost revenue as a result of the location being un-used, on March 7th, 2005 the Students Union authorized by the SU Exec began operating “Juicy”. The SU Exec made this decision despite there being no provision for the operation of “Juicy” within the approved Budget nor were any resolutions passed by Students Council (SC) approving the operation on an interim basis. “Juicy” and “Juice to Go” are both juice bars that employ the same employees, operate at the same location and occupy the same niche market of the juice beverage industry.

ISSUES

- 1.) Did the SU Exec act appropriately in mitigating SU losses by making the decision to take over operations of the juice bar?
- 2.) If this decision was proper, at what point should the SU Exec seek approval from SC for decisions arising from unforeseeable events?

DECISION

The SU Exec owes a duty to the student population to ensure that the SU is run diligently and in the best interests of all students of the University of Alberta. This duty includes a duty to manage the daily operations of SU so as to mitigate losses arising from unforeseeable consequences. It was determined by SU Exec that it was in the legal and financial best interests of the SU to take over operations of the juice bar. While we agree with the SU Exec that this decision was the best one to make both from a business perspective and a legal one the student population also has an interest in preserving the processes and procedures that ensure that decisions are made in conformance with certain rules. Because this decision involved finances of the SU it would be in the best interests of the student population that the SC approve any decision affecting revenue or expenditures. The decision turns on resolving at what point the SU Exec is required to get formal SC approval with respect to unforeseen events similar to the present situation. Mr. Smith argues that SC approval must be acquired before any action affecting the budget is undertaken. On the other hand Mr. Blatz argues that SU Exec should have the ability to react to unforeseen consequences in a timely matter, which may in some cases require it from dispensing with the necessary SC formal approval.

The Board finds that the SU Exec requires the ability to respond to unforeseeable circumstances as part of its mandate to run and coordinate the daily business of the SU. The SU Exec’s decision to take over operation of the juice bar in a timely matter was appropriate given the situation and the ramifications of possible delay. However SC approval should have been sought as

soon as it was possible to do so. Formal approval would necessarily constitute an amendment to the budget and if this was not feasible due to complexities then approval to run “Juicy” on an interim basis should have been sought by the SU Exec. The decision not to get SC approval by either of these means by at least March 9, 2005, the last regularly scheduled SC hearing, was a breach of SU Exec. obligation to get SC approval in this circumstance.

REMEDY

DIE Board orders that the SU Exec obtain formal SC approval as soon as it is possible for the SU Exec to do so, and in no event not later than the next regularly scheduled SC meeting.

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.