

***Discipline, Interpretation and Enforcement (D.I.E.) Board***  
***Ruling of the Board***

Style of Cause: Richardson vs. Samuel (Ruling #2, 2007/2008)

Date Heard: February 8, 2008-02-09

Appearing for the D.I.E. Board:

Presiding Chair: Jason Morris, Assistant Chief Tribune

Tribunes: Sharon Riley, Tribune  
Sharon Ohayon, Tribune

Appearing for the Applicant: Brock Richardson

Appearing for the Respondent: Bobby Samuel, VP Academic

Case Summary:

Brock Richardson alleges that Bobby Samuel, VP Academic, violated Bylaw 100 s.18(1) "Conflict of Interest" by using his authority as VP Academic to obtain the creation and distribution of a pamphlet designed to promote and aid a future campaign for President of the Students' Union. Mr. Richardson asks that Mr. Samuel be removed from office, that a public reprimand of his actions be issued, and that the remaining copies of the pamphlet be destroyed. Mr. Samuel responds that while an ethical breach did occur, it is not caught by Bylaw 100 s.18(1). He further responds that removal from office is a disproportionate remedy. The Board finds that Mr. Samuel did violate Bylaw 100 s.18(1), and imposes various remedies.

#### SUMMARY OF ALLEGATIONS

Brock Richardson alleges that Bobby Samuel, VP Academic, violated Bylaw 100 s.18(1) "Conflict of Interest" by using his authority as VP Academic to obtain the creation and distribution of a pamphlet designed to promote and aid a future campaign for President of the Students' Union.

#### FACTS

1. Mr. Samuel, without the input of other student executives, had a department of the Students' Union design a two-page pamphlet ("the pamphlet") which featured Mr. Samuel personally, reported on his achievements as VP Academic, and asked for feedback from students in a wide variety of areas.
2. The value of the design services received was approximately \$120.
3. Mr. Samuel paid for the printing of the pamphlet out of his own funds. He printed 300 copies of the pamphlet.
4. Mr. Samuel arranged meetings with multiple student groups.
5. Mr. Samuel met with two student groups, and distributed approximately 20 pamphlets.

6. The ability to have the department of the Students' Union design these pamphlets at no cost, and to distribute them through meetings in his capacity as a student executive was not available to the members of the Students' Union generally.
7. At a meeting of the Executive Committee on January 29, 2008, Mr. Samuel was censured by the Executive Committee for these actions.
8. Mr. Samuel cancelled further student group meetings, and provided Mr. Janz, President of the Students' Union, with the remainder of the pamphlets.
9. At a meeting of the Students' Council on February 5, 2008, the Council received a letter from Mr. Samuel which read in part:  
"That's when I decided to conduct academic outreach through creating the pamphlet; to share with the student body about what progress I made on my campaign promises from last year. As well, I wanted to hear what students wanted from their Students' Union and use that input to create my presidential election platform."  
The letter continues later:  
"... I still felt that I should cover the costs for these pamphlets because there was an element of pre-campaigning."
10. At the same meeting of Students' Council, Mr. Samuel was censured for his actions.

## RELEVANT LEGAL PROVISIONS

Bylaw 100 s.18(1) states:

### 18. Conflict of Interest

(1) No person shall use a Students' Union position that he/she holds to further personal business interests.

## ANALYSIS

There are two issues at play in this matter. First is a disagreement over the requirements of Bylaw 100 s.18(1). Second is whether or not removal from office would be an appropriate remedy for a violation of that bylaw.

It is to be noted that Mr. Samuel, while maintaining that his actions do not violate the bylaw as written, conceded at the hearing that he had made a serious mistake, and submitted to whatever penalties the Board felt appropriate short of removal from office. The Board, however, cannot impose penalties on the basis of one's subjective guilt. The Board's responsibility is to give force to the decisions of the Students' Council by ensuring that it is their judgement – not the judgement of the members of the Board, and not the judgement of the parties before it – that determines what actions are and are not legal.

With regards to interpretation of Bylaw 100 s.18(1), Mr. Richardson suggested that the words "personal business interests" should be interpreted broadly to include any sort of "tangible gain." He proposed that the benefits received by Mr. Samuel in this instance toward a future Presidential race qualified as "tangible gain." Mr. Samuel, however, suggested that the definition of "personal business interests" was more narrow, limited to something akin to "profit", and that the salary associated with a student executive position would not meet the definition of "profit."

The Board finds that in order for a given action to qualify as a use of a position to further personal business interests under Bylaw 100 s.18(1), the action must appear to the reasonable student to serve personal business interests more than would be expected from the usual performance of one's duties. In this case, the Board finds that the reasonable student would have perceived this pamphlet in the way it was perceived by the Executive Committee, and by the Students' Council, and in the manner admitted to by Mr. Samuel. Mr. Samuel's actions were designed to bolster his future Presidential campaign beyond what would be expected from the usual performance of the duties of the Vice President Academic.

The question then is whether or not the benefit received by Mr. Samuel qualifies as a "personal business interest." While the Board appreciates both Mr. Richardson's and Mr. Samuel's submissions in this regard, it finds neither of them satisfactory. The Board is satisfied that to meet the definition of a "personal business interest" it is sufficient but not necessary that the individual receive a non-trivial monetary gain.

In these circumstances, Mr. Samuel admits to having received \$120 worth of design services at no cost to himself. That is a non-trivial monetary gain that the reasonable student would not expect him to receive from the usual performance of his duties as Vice President Academic.

We now turn to the matter of remedy. Mr. Richardson requests that Mr. Samuel be removed from office, that a public reprimand be issued, and that the remaining pamphlets be destroyed. Of these, the Board finds itself able to agree with only the third. The Board wishes to emphasize that there are circumstances in which breaches of Bylaw 100 s.18(1) would justify removal from office of a student executive. This, however, is not such a case. Mr. Samuel has shown no pattern of poor judgment, he has displayed recognition of his error, and he has displayed a willingness to participate in its rectification. Further, the practical effect of this violation is relatively small and can be resolved by other means. With regard to public reprimand, the Board finds that this would be redundant to the publication of this ruling on the SU website as a matter of standard procedure, and the coverage this issue has already received and is certain to continue to receive in the student press.

Mr. Richardson suggested that removal from office would be important in order to ensure that Mr. Samuel could not use his position to take similar actions in future to promote himself through the use of his position. While the Board finds that removal from office is extreme to achieve this objective, the Board finds that the objective itself is not unreasonable.

Mr. Samuel suggested that he would be willing to submit to any remedy less than removal from office, including the garnishing of 100% of his salary for the remainder of his term. This, too, the Board finds extreme. The Board also believes that removing a student executive's salary would reduce their accountability to the Students' Union for the proper performance of their duties.

**DISPOSITION AND REMEDY IMPOSED**

This is an extremely serious matter. The Board is troubled that while Mr. Samuel was aware that it would be inappropriate to use a Students' Association budget to pay for the printing of the pamphlet, he was unaware of the effect on the Students' Union of using his authority as Vice President to promote his own presidential aspirations.

The Students' Union is a democratic organization. Any time that a person with power inside a democracy uses that power to their own benefit rather than the benefit of the voting membership, they have violated a sacred trust. When they use that power in such a way as to promote or prolong their own power in that organization, they not only violate the trust of the voters, but also injure the very democratic nature of the organization. The legitimacy of the organization suffers, and in turn everything the organization seeks to achieve becomes more difficult.

The Board finds that Mr. Samuel violated Bylaw 100 s.18(1). The actions taken by Mr. Samuel were a use of his position to obtain a non-trivial monetary gain beyond what a reasonable student would expect from the proper exercise of one's duties. The Board orders that the Students' Union will garnish Mr. Samuel's wages in an amount of \$120 to cover the cost of the design services. The Board further places an injunction on Mr. Samuel against using the design of the pamphlet, including the slogan and textual contents, or any portion or derivative thereof, for the purpose of any future political campaign. The Board further orders Mr. Samuel that if he receives any survey feedback as a result of the pamphlet, he is to immediately forward that data to the Chief Returning Officer with an instruction that the responses are to be made available to all candidates in the next election. The Board further orders that the remaining pamphlets be destroyed and recycled. The Board further orders that Mr. Samuel must obtain the approval of one other member of the Executive Committee in advance of meetings with student groups, which approval will be withheld unless the purpose of the meeting is clearly academic, and within Mr. Samuel's responsibilities as Vice President Academic. The Board further imposes a punitive fine of \$250 on Mr. Samuel.

## RECOMMENDATIONS

The Board recommends that Students' Council consider the text of Bylaw 100 to determine whether amendments are necessary to provide accountability for a wider range of ethical breaches on the part of student governors and executives.

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 Chief Tribune, Guillaume Laroche at [ea@su.ualberta.ca](mailto:ea@su.ualberta.ca).