



MONTELEONE #1
February 9, 2006

NO. 38229
KAMLOOPS REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NICHOLAS BYERS and BRENT FOSTER

PETITIONERS

AND:

THE CARIBOO COLLEGE STUDENT SOCIETY
(INCORPORATION #S14199)

RESPONDENT

AFFIDAVIT

I, Terry Monteleone, of 162 Anvil Crescent, Kamloops, British Columbia, MAKE OATH
AND SAY AS FOLLOWS:

1. I am the President of the Respondent, the Cariboo Student Society (hereinafter, the "CSS"), which is now known as the Thompson Rivers University Students' Union, and as such I have personal knowledge of the matters deposed to in this affidavit except where stated to be based on information and belief, in which case I believe those matters to be true.
2. On June 29, 2005, at a meeting of the Board of Directors of the CSS, it was agreed by a majority of directors that the CSS would apply for prospective membership in the Canadian Federation of Students (hereinafter, the "CFS").
3. At that meeting, 2 representatives of the CFS, Summer McFadyen and Michael Gardiner, explained to the Directors of the CSS that the CFS's bylaws governed the prospective membership application process. It was also explained that:


- Prospective membership is a trial membership of limited duration;
 - A written application for prospective membership submitted by an eligible local student association is considered as a binding contract to accept the rights and responsibilities of prospective membership in the Canadian Federation of Students, the Canadian Federation of Students-Services, and the applicable provincial component;
 - A prospective member association must hold a referendum on full membership in the CFS, in accordance with CFS Bylaws, within twelve (12) months following its acceptance as a prospective member unless an extension is granted by the National Executive of the CFS;
 - In the event that the majority of those voting in the referendum support full membership in the CFS, full membership will be granted at the subsequent national general meeting, at which point prospective membership shall cease; and
 - In the event that the majority of those voting in the referendum oppose full membership in the CFS, prospective membership will immediately cease.
4. Attached hereto as Exhibit "A" is an extract from the Bylaws of the CFS, being Bylaw I – Membership. The procedures governing the holding of a referendum by which a prospective member local association may vote on full membership are set out in the bylaw.
 5. At the time of the decision to apply for prospective membership, it was also explained that the Federation's Bylaws would govern the membership referendum process, and that the referendum would be overseen by a committee composed of two (2) members appointed by the prospective local association

and two (2) members appointed by the CFS. The CFS, through the Oversight Committee, would be responsible for setting the referendum rules and procedures including: referendum notice, campaign period, campaign materials, polling locations, all aspects of voting, counting ballots, and all other rules and regulations for the vote.

6. On June 29, 2005, I sent a letter to the CFS applying for prospective membership in the CFS, with the understanding that the conditions described above would apply.
7. At the August, 2005 B.C. general meeting of the CFS, and the November, 2005 National general meeting of the CFS, both of which I attended, our application was approved by the members of the CFS.
8. As per the bylaws of the CFS, the CSS selected two representatives to the referendum oversight committee at its meeting of December 5, 2005. It was, and remains, my understanding that the CSS' representation on the Committee is provided for by in the bylaws of the CFS as part of its rules to ensure that the referendum is conducted fairly and openly.
9. The CSS appointed two senior staff, Ernie Ware and Nathan Lane as its representatives on the Committee. The CFS appointed two senior staff, Lucy Watson and Summer McFadyen, as its representatives.
10. The Committee met several times in December 2005 and January 2006 to develop rules for the referendum, including polling locations, dates, times, and rules for conduct during the referendum.
11. The Committee finalized the rules for the referendum on January 19, 2006.

12. During the week of January 30 to February 3, 2006 Ernie Ware ended his employment with the CSS. I was appointed to replace Mr. Ware on the committee.
13. During the week of January 30, Michael Gardiner replaced Lucy Watson as one of the CFS representative on the committee.
14. Notice of the referendum was provided to members of the CSS on January 3, 2006, as per the CFS bylaws.
15. The campaigning period for the referendum was set for 17 days, including polling days.
16. At the commencement of the campaign period, forms were made available to any interested party to register a yes or no side in the referendum campaign.
17. The referendum oversight committee received registration forms for three separate "no" sides and one registration form for a "yes" side.
18. Following the fourteen days of campaigning, voting commenced on the morning of Tuesday, February 7, 2006 at the four approved and advertised polling locations at approximately 8:00 am.
19. The Referendum Oversight Committee had approved a balloting process that was set out in written Poll Clerk instructions.
20. Early in the morning of February 7, I learned from Nathan Lane that a Referendum Oversight Committee meeting was required as at least one person had managed to defraud the system by voting twice (once at each of two polling stations). I later learned that person to be one of the Petitioners herein, Nicholas Byers.




Terry Monteleone

DONALD G. CRANE
BARRISTER & SOLICITOR
300 - 111 WATER STREET,
VANCOUVER, B.C. V6B 1A7
687-5611

This is Exhibit "A" referred to in the
affidavit of TERRY MONTELEONE
sworn before me at Kamloops
in the Province of British Columbia,
this 9 day of FEBRUARY, 2006
.....
A Commissioner for taking Affidavits
in and for the Province of British Columbia

BYLAW I - MEMBERSHIP

1. Types of Memberships

General Description: There are two types of members of the Federation, individual members and voting members. Students, or individual members, are represented through the local student association to which they belong. Local student associations representing individual members are called voting members.

- a. Local student associations are eligible to receive the status of voting members in the Federation as provided for in Bylaw I, Section 2, and 3;
- b. Individual members of the Federation will be all students in local student associations that are voting members.

2. Types of Voting Membership Status

a. Full Membership

General Description: Full membership is the standard form of membership in the Federation.

- i. A local association is eligible to apply for full membership in the Federation if its members have approved by referendum membership in the Canadian Federation of Students, the Canadian Federation of Students-Services, and the applicable provincial component as described in Bylaw VII-Provincial Components;
- ii. A written application for full membership submitted by an eligible local student association will be considered as a binding contract to accept the rights and responsibilities of full membership in the Canadian Federation of Students, the Canadian Federation of Students-Services, and the applicable provincial component.
- iii. Within 90 days of the receipt by the National Executive of a written application for membership, the National Executive will examine the application to determine whether it is in order, and will make a recommendation to the voting members of the Federation concerning the application.
- iv. At the next general meeting of the Federation, the full membership application shall be put to a vote and shall require a majority of at least two-thirds of the votes cast to be accepted.
- v. A local association's application for membership, once accepted by the Federation, shall constitute a binding contract to collect and remit to the Federation full membership fees for the duration of membership.
- vi. Notwithstanding Section 2.a.vii. of this Bylaw, the fees for full member local associations shall be:
 - \$3.00 per semester, or \$6.00 per academic year, per local association individual member of the Canadian Federation of Students/Canadian Federation of Students-Services, pro-rated as per the policy of the member local association; and
 - the applicable provincial component fee.
- vii. Beginning in 1996, the Federation membership fee shall increase on August 1 each year by the rate of increase in the national Consumer Price Index during the previous calendar year.

b. Prospective Membership

General Description: Prospective membership is a trial membership of limited duration.

- i. A local student association is eligible to apply for prospective membership if it has passed a motion of its members, executive, council or equivalent representative body to apply for prospective membership in the Federation and its applicable provincial component as described in Bylaw VII-Provincial Components;
- ii. A written application for prospective membership submitted by an eligible local student association will be considered as a binding contract to accept the rights and responsibilities of prospective membership in the Canadian Federation of Students, the Canadian Federation of Students-Services, and the applicable provincial component.
- iii. Within 90 days of the receipt by the National Executive of a written application for prospective membership, the National Executive will examine the application to determine whether it is in order, and will make a recommendation to the voting members of the Federation concerning the application.
- iv. At the next general meeting of the Federation, the prospective membership application shall be put to a vote and shall require a majority of at least two-thirds of the votes cast to be accepted.
- v. A local student association's application for prospective membership, once accepted by the

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- Federation, shall constitute a binding contract to pay prospective membership fees, as described in Section 2 b-vi, and conduct a full membership referendum, as described in Section 2 b-viii;
- vi. The fee for prospective membership in the Federation shall be five per cent (5%) of the regular Federation membership fee, notwithstanding that the fee may be reduced or waived by a majority vote of a national general meeting or the National Executive;
 - vii. A prospective member association shall have full voting rights in Federation national general meetings, but shall not be permitted to designate a proxy to vote on its behalf, and shall have the same access to Federation resources and materials, except the International Student Identity Card, that a full member has;
 - viii. A prospective member association must hold a referendum on full membership in the Federation, in accordance with Section 5 of this Bylaw, within twelve (12) months following its acceptance as a prospective member unless an extension is granted by the National Executive of the Federation;
 - ix. In the event that the majority of those voting in the referendum support full membership in the Federation, full membership will be granted at the subsequent national general meeting, at which point prospective membership shall cease;
 - x. In the event that the majority of those voting in the referendum oppose full membership in the Federation, prospective membership will immediately cease;
 - xi. In the event that the referendum fails to achieve quorum, prospective membership will be automatically extended and another referendum on full membership will be held within the subsequent six (6) months in accordance with Section 5 of this Bylaw; and
 - xii. In the event that a prospective member fails to conduct a referendum on full membership as required by this Bylaw, the Federation shall have the option to either cancel or extend, by majority vote of a national general meeting, the prospective membership until a referendum on full membership is conducted.

3. Membership Rights and Responsibilities

a. Rights of Individual Members

- i. The individual members of the Federation collectively belonging to a member local association will have sole authority to make decisions through referendum on all questions of membership in the Federation, subject to the other provisions of this Bylaw.
- ii. The individual members of the Federation collectively belonging to a member local association will have sole authority to initiate, by petition signed by not less than ten percent (10%) of the individual members and delivered to the National Executive, a referendum to federate as described in Article 5 of this Bylaw.
- iii. The individual members of the Federation collectively belonging to a member local association will have sole authority to initiate a de-Federation referendum, as described in Article 7 of this Bylaw, by submitting to the National Executive of the Federation a petition, signed by not less than ten percent (10%) of the individual members of the association, calling for the referendum.
- iv. Individual members of the Federation have the right to have their interests represented collectively in the Federation through their local student association, but will not have voting rights at the Federation general meetings.
- v. The Federation will attempt to ensure that a Federation membership card is issued to each individual member of the Federation who is a member of a full voting member of the Federation.

b. Rights of Voting Members

- i. Each voting member of the Federation will have one vote at and participate in general meetings of the Federation provided all outstanding delegate fees for past meetings have been paid in full. This is subject to review by the National Executive on a case by case basis upon request.
- ii. Voting members of the Federation have the right to be represented collectively to the federal government and to other national organisations.
- iii. Each voting member of the Federation is entitled to the protection and support of the Federation in accordance with the objectives of the Federation.
- iv. Each voting member of the Federation is entitled to have access to Federation research, information, materials, staff, and other resources.
- v. Each voting member of the Federation is entitled to have access to all information and official

documents concerning the operations and activities of the Federation and of the National Executive.

- vi. Delegates sent by voting members to general meetings of the Federation will have the right to stand for election to any vacant position on a committee of the Federation subject to such other conditions as may be specified at the time of formation of the committee.

c. Responsibilities of Voting Members

Although Federation staff and executive members will handle many day-to-day operations, the structures of the Federation can only function if there is full cooperation among Federation voting members. The achievement of the work and goals of the Federation depends on the active participation of students and student associations.

- i. Each voting member of the Federation is responsible for supporting the objectives of the Federation and will abide by all provisions of these By-laws.
- ii. Each voting member will ensure that Federation fees are collected each year at its institution and forwarded to the Federation, according to the contract of membership and the fee agreement if applicable, signed when the member joined.
- iii. The voting member will not represent the membership fees collected on behalf of the Federation as an expense and/or revenue of the member in its budgets, its financial statements, its audits or any other documents of the voting member.
- iv. Each voting member will be responsible for representing the interests and concerns of its member students at general meetings of the Federation.
- v. Each voting member is responsible for contributing to the formulation of Federation policy and where possible and by resolution of the local council for supporting and implementing that policy.
- vi. Each voting member will be responsible for communicating information from the Federation and the provincial Federation components to its students.
- vii. Each member local association will communicate and work cooperatively with Federation staff and members of the National Executive.

4. Vote to Federate

In accordance with Section 2 of this Bylaw, the following shall be the rules and procedures for a referendum, in which the individual members of a prospective member local association may vote on full membership in the Federation:

a. Scheduling of the Referendum

The referendum will be scheduled by the prospective member association in consultation with the Federation.

b. Referendum Oversight Committee

The referendum shall be overseen by a committee composed of two (2) members appointed by the prospective local association and two (2) members appointed by the Federation, that shall be responsible for:

- i. establishing the notice requirement for the referendum in accordance with Section 4-c of this Bylaw and ensuring that notice is posted.
- ii. establishing the campaign period in accordance with Section 4-d of this Bylaw.
- iii. approving all campaign materials in accordance with Section 4-e of this Bylaw and removing campaign materials that have not been approved.
- iv. deciding the number and location of polling stations.
- v. setting the hours of voting in accordance with Section 4-f of this Bylaw.
- vi. overseeing all aspects of the voting.
- vii. counting the ballots following the vote.
- viii. establishing all other rules and regulations for the vote.

c. Notice of Referendum

Notice of the referendum, that includes the referendum question and voting dates, shall be provided to the individual members of the prospective member association no less than two (2) weeks prior to voting in the referendum.

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d. Campaigning

- i. There shall be no less than ten (10) days on which campaigning is permitted, during which classes are in session, immediately preceding and during voting; and
- ii. Only individual members and representatives of the prospective member association, representatives of the Federation and representatives of the Federation member local associations shall be permitted to participate in the campaign.

e. Campaign Materials

- i. Campaign materials shall include all materials developed specifically for the referendum campaign.
- ii. Materials produced by Federation that promote campaigns and services of the Federation shall not be considered as campaign materials unless they include specific content about the referendum.
- iii. The Federation website shall not be considered a campaign material unless it includes specific content about the referendum.
- iv. The Federation's annual report, financial statements, research and submissions to government shall not be considered a campaign material.
- iv. Campaign materials shall not be misleading, potentially libelous or false.

f. Voting and Tabulation

- i. Voting shall be conducted at voting stations or, subject to the agreement between the prospective member association and the Federation, at a general meeting of the prospective member association or by a mail-out ballot.
- ii. There shall be no less than sixteen (16) hours of polling over no less than two (2) days, except in the case of voting being conducted at a general meeting.
- iii. Unless mutually agreed otherwise by the prospective member association and the Federation, the referendum question shall be: "Are you in favour of membership in the Canadian Federation of Students?"
- iv. In the event that polling is conducted at a general meeting, representatives of the Federation and Federation member local associations shall be extended full speaking rights in the meeting.
- v. The prospective member association and the Federation shall each be permitted to appoint one poll clerk for each polling station.
- vi. The prospective member local association and the Federation shall each be permitted to appoint one poll scrutineer to oversee the counting of ballots.

g. Appeals

Any appeals of the referendum results or rulings by the Referendum Oversight Committee shall be adjudicated by an Appeals Committee composed of one (1) member appointed by the prospective member association and one (1) member appointed by the Federation, who were not members of the Referendum Oversight Committee.

5. Suspension and Expulsion of Members

A member local association may have its voting privileges suspended or may be expelled for violating its responsibilities as outlined in Bylaw I, Section 3 (c), subject to the following procedure:

a. Process for Initiating the Procedure of Suspension or Expulsion

The procedure for suspending the voting privileges or expelling a member local association may be initiated by:

- i. resolution of the National Executive; or
- ii. a petition, submitted to the National Executive, signed by not less than one-third (1/3) of the voting member locals associations and listing the reasons for the proposed suspension of voting privileges or expulsion.

b. Notice of the Suspension or Expulsion Procedure

Upon resolution of the National Executive or receipt of a petition by the National Executive, initiating the process for suspending or expelling a member local association, the National Executive will:

- i. place the matter on the agenda for the next regularly scheduled national general meeting for which no less than four (4) week notice can be given; and

- ii. inform, by registered mail, the member local association against which the suspension or expulsion procedure has been initiated no less than four (4) weeks prior to the national general meeting at which the matter of suspension or expulsion will be considered.

c. Required Majority

A two-thirds vote of a national general meeting shall be required in order to suspend the voting privileges or expel a member local association.

d. Appeal of Suspension or Expulsion

Any student association, which has had its voting privileges suspended or has been expelled, may appeal the decision to the next world congress of the International Union of Students.

e. Reinstatement of Voting Privileges

A member local association, which has had its voting privileges suspended, may have its voting privileges reinstated subject to the following procedure:

- i. Upon receipt of a written application from a member local association requesting reinstatement of voting privileges, the National Executive will assess the merits of the application and make a recommendation to the voting member local associations at the next regularly-scheduled national general meeting.
- ii. A two-thirds majority vote shall be required to reinstate a member local association's voting privileges.

6. Vote on Defederating

The individual members of the Federation belonging to a member local association may vote on whether to defederate, subject to the following rules and procedures:

a. Notice

- i. No vote on de-federating may be held between:
 - April 15 and September 15; and
 - December 15 and January 15.
- ii. Notice of a vote on defederating must be delivered by registered mail to the head office of the Federation not less than six (6) months prior to the vote.
- iii. Notice of the vote must include the exact dates and times of voting.
- iv. In the case of a withdrawal referendum incorporating a mail-out component, the exact date of the referendum shall be the date the ballots are mailed to the individual members;
- v. Failure to adhere to the notice provisions in Articles a.i, a.ii, and a.iii, shall invalidate the results of the vote.

b. Campaigning

- i. There shall be no less than two (2) weeks of campaigning immediately preceding the voting during which time classes are in session.
- ii. Only individual members and representatives of the member local association, representatives of the Federation and representatives of other Federation member local associations shall be permitted to participate in the campaign.

c. Voting

- i. Voting will be conducted at voting stations or, subject to the agreement of the Federation, at a general meeting of the member local association or by a mailout ballot.
- ii. There shall be no less than sixteen (16) hours of polling over no less than two (2) days, except in the case of voting being conducted at a general meeting.
- iii. In the event that polling is conducted at a general meeting, representatives of the Federation and Federation member local associations shall be extended full speaking rights in the meeting.

d. Quorum

Quorum for the vote shall be that of the member local association's or five percent (5%) of the individual members of the local association, whichever is higher.

e. Administering the Campaign and Voting

The vote shall be overseen by a committee composed of two (2) members appointed by the Federation and two (2) members appointed by the member local association. The committee shall be responsible for:

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- i. deciding the manner of voting, be that by referendum, general meeting or mailout ballot.
- ii. deciding the number and location of polling stations;
- iii. approving all materials to be distributed during the campaign;
- iv. deciding the ballot question;
- v. overseeing the voting;
- vi. counting ballots;
- vii. adjudicating all appeals; and
- viii. establishing all other rules and regulations for the vote.

f. **Advance Remittance of Outstanding Federation Fees**

In addition to Articles a. to e., in order for a de-federation referendum to proceed, a member local association must remit all outstanding Federation fees not less than six (6) weeks prior to the date of referendum.

g. **Minimum Period Between De-Federation Votes**

In addition to Articles a. to f, in order for a de-federation referendum to take place, a member local association may not have held a de-federation referendum within the previous twenty-four (24) months. This clause may be waived, by a two-thirds majority vote of the National Executive, if the procedures of the de-federation referendum are questionable in the extreme.

h. **Minimum Period Between Federation and De-Federation Votes**

In addition to Articles a. to g, in order for a de-federation referendum to proceed, a member local association may not have held a referendum to join the Federation within the previous twenty-four (24) months. This clause may be waived, by a two-thirds majority vote of the National Executive.

7. **Procedure for Application for Withdrawal**

- a. Within 90 days of the receipt of a letter from a member local association notifying the Federation of its withdrawal from the Federation, the National Executive will examine the notification to determine whether it is in order, and will make a recommendation to the voting members of the Federation concerning the application.
- b. At the opening plenary of the next general meeting of the Federation, ratification of the withdrawal shall be put to a vote.
- c. The withdrawal shall take effect on June 30 following the ratification of the withdrawal.



REFERENDUM VOTING INCIDENT REPORT

This is Exhibit "B" referred to in the
affidavit of TERRY MONTELEONE
sworn before me at KAMLOOPS
in the Province of British Columbia,
this 9 day of FEBRUARY 2006

Polling Station Location SCIENCE

Date of incident FEBRUARY 7th 2006

Time of Incident BETWEEN 8:30AM and 10:00AM

Poll Clerks on duty VESHWANT SELVARATNAM

KATIE RIECKEN

K. Riecken

Description of incident Nick Byers came by the
Polling Station at Science with the intention
of voting. He handed us his ID, which was
then checked by the polling clerks, and marked
against the voter's list.

Outcome/resolution Nick Byers was allowed to
cast his vote.

V. Selvaratnam



REFERENDUM VOTING INCIDENT REPORT

This is Exhibit C referred to in the
affidavit of TERRY MONTELEONE
sworn before me at KAMLOOPS
in the Province of British Columbia,
this 9 day of FEBRUARY 2006

Polling Station Location Old Main

Date of incident Feb 7th

A Commissioner for taking Affidavits
in and for the Province of British Columbia

Time of incident approx. between 8:00 am - 10:00 am

Poll Clerks on duty Morrie Barr

Steve Beasley

Description of incident Nick Byers came to
the voting station & asked to
vote. He gave us his student card
as he said he hadn't voted yet and we
marked it

Outcome/resolution He was given a ballot,
and recorded a vote

[Signature]

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REFERENDUM VOTING REPORT

This is Exhibit "D" referred to in the
affidavit of TERRY MONTGLEONE
sworn before me at KAMLOOPS
in the Province of British Columbia
this 9 day of FEBRUARY 2006

A Commissioner for taking Affidavits
in and for the Province of British Columbia

Polling Station Location

Arts & Education

Date of incident

Tuesday Feb 7th

Time of incident

2:25 pm

Poll Clerks on duty

Liba Macleod
George Garrett

Description of incident

Student, Nicholas Byers,
tried to vote twice (he asked
if he could vote) but he was
already checked off

Outcome/resolution

He was ~~denied~~ told
he had already voted in another
building. He asked if we knew
what building + then left.
Tried to argue + then left.
Admitted he had voted twice.

A handwritten signature, possibly "HMA", is written at the bottom right of the page.

MONTELEONE #1
FEBRUARY 9, 2006

NO. 38299
KAMLOOPS REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

NICHOLAS BYERS and BREN FOSTER

PETITIONERS

AND:

THE CARIBOO COLLEGE STUDENT SOCIETY
(INCORPORATION #S14199)

RESPONDENT

AFFIDAVIT

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