

ONTARIO



Superior Court of Justice
Justices' Office
Central West Region

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FROM: Bonnie Russell Fax No. (905) 456-4834
The Superior Court of Justice
Brampton, ON

DATE: Wednesday, 24 March 2010

RE: University of Guelph Central Student Assoc., v. Canadian Federation of Students
et al
Court File No. 109/10

COMMENTS: Attached please find Justice T. O'Connor's Endorsement in the above matter.

NO. OF PAGES, including cover sheet: 9

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CITATION NO.: University of Guelph Central Student Association v. Canadian Federation of Students et al, 2010 ONSC 1790
COURT FILE NO.: 109/10
DATE: 20100324

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: UNIVERSITY OF GUELPH CENTRAL STUDENT ASSOCIATION Applicant

v.

CANADIAN FEDERATION OF STUDENTS and CANADIAN
FEDERATION OF STUDENTS – ONTARIO Respondents

BEFORE: O'CONNOR J.

COUNSEL: Sandra Barton, for the Applicant

Jonathan Davis-Sydor, for the Respondent Canadian Federation of Students – Ontario

Gordon Douglas, for the Respondent Canadian Federation of Students

ENDORSEMENT

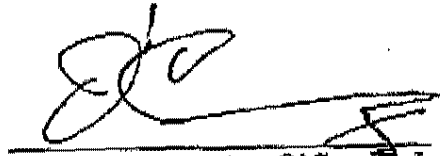
[1] The Application is granted in part.

[2] Order to go as follows:

- (i) An Order directing a referendum to be held on the question of the University of Guelph's Central Student Association's (CSA) continued membership in the Canadian Federation of Students (CFS) and in the Canadian Federation of Students-Ontario (CFS-O), such referendum to be held on April 7, 8 and 9, 2010,
- (ii) The referendum shall proceed in accordance with the Referendum Protocol appended as Schedule A,

- (iii) Any additional administrative matters, such as time frames, sizes of signage, enrolment numbers etc., not addressed by the Referendum Protocol shall be determined by the Referendum Oversight Committee, as set out in Schedule A,

- (iv) In the event that the Referendum Oversight Committee cannot reach agreement on a particular issue, the matter shall be remitted for a final determination to the Honourable James Chadwick, an independent third party who has agreed to act in such capacity.



O'Connor J.

DATE: March 24, 2010

CITATION NO.: University of Guelph Central Student Association v. Canadian Federation of
Students et al, 2010 ONSC 1790
COURT FILE NO.: 109/10
DATE: 20100324

SUPERIOR COURT OF JUSTICE - ONTARIO

RE: UNIVERSITY OF GUELPH
CENTRAL STUDENT
ASSOCIATION

v.

CANADIAN FEDERATION OF
STUDENTS and CANADIAN
FEDERATION OF STUDENTS -
ONTARIO

BEFORE: O'CONNOR J.

COUNSEL: Sandra Barton, for the Applicant

Jonathan Davis-Sydor, for the
Respondent Canadian Federation of
Students – Ontario

Gordon Douglas, for the Respondent
Canadian Federation of Students

ENDORSEMENT

O'Connor J.

DATE: March 24, 2010

Schedule A:

REFERENDUM PROTOCOL
Referendum on Continued Membership in the Canadian Federation of Students and the
Canadian Federation of Students-Ontario
- University of Guelph -

Composition and Powers of the Committee:

The referendum will be administered by a four (4) person Referendum Oversight Committee (the "ROC" or "Committee") comprised of two (2) members appointed by the National Executive of the Canadian Federation of Students and/or Executive Committee of the Canadian Federation of Students-Ontario, and two (2) members appointed by the Guelph Central Students' Association (CSA).

The Referendum Oversight Committee shall be responsible for:

- a. deciding the number and location of polling stations, and/or
- b. deciding whether the voting will occur by way of online voting.

In addition, the Referendum Oversight Committee shall be responsible for:

- a. approving campaign materials in accordance with the guidelines below,
- b. setting the hours of voting in accordance with Section 6.g.ii of the By-Laws of the CFS,
- c. overseeing all aspects of the voting,
- d. tabulating the votes cast,
- e. adjudicating all appeals, and
- f. establishing all other rules and regulations for the vote.

In the event that the Committee cannot reach agreement on a particular issue (including approval of campaign materials) within the deadlines set out in the protocol, it shall delegate the decision to a third party, the Honourable James Chadwick, for a final determination.

Date:

The Referendum shall take place on April 7, 8, and 9, 2010 (the "Polling Days").

Referendum Question:

The Referendum Question shall appear on the ballot as follows:

"Are you in favour of continued membership in the Canadian Federation of Students?"

Eligibility:

“Eligible voters” will be those University of Guelph (“University”) full and part-time undergraduate students attending the University’s Guelph campus who are registered as of March 29, 2010.

Referendum Website:

A Referendum Website will be established by the Referendum Oversight Committee. The Referendum Website will provide as follows:

- Notice of Referendum
- Campaign Period
- Polling days and locations
- Copy of the referendum protocol
- Complaint form
- Email link for inquiries about the Referendum process

Referendum Process Expenses:

The fees and expenses with respect to the Referendum process shall be paid for by the Canadian Federation of Students, Canadian Federation of Students-Ontario and Guelph Central Student Association and apportioned one-third to each of the Canadian Federation of Students, Canadian Federation of Students-Ontario, and the Guelph Central Student Association.

Campaigning:

- a. Campaigning shall begin at 08:00, March 29th, 2010 and end at 20:00, April 6, 2010, unless otherwise agreed by the Referendum Oversight Committee.
- b. In order to participate in the referendum campaign, individuals must familiarize themselves with the referendum rules as outlined in this document. Any person who wishes to campaign in the referendum may request and shall receive an orientation to the referendum rules by the members of the Referendum Oversight Committee.
- c. In order to participate in the referendum, campaign sides (to a maximum of one “yes” side and one “no” side) must register with the Referendum Oversight Committee. A registration form shall be available from the Oversight Committee.
- d. Campaigners shall act reasonably, responsibly and in good faith. Further, each campaign shall:
 - i. ensure that all campaigners are aware of and understand all relevant Bylaws, referendum rules and rulings of the Referendum Oversight Committee;
 - ii. ensure that all campaigners comply with all relevant Bylaws, referendum rules and rulings of the Referendum Oversight Committee; and
 - iii. adhere to all applicable University policies and procedures including but not

limited to Student Rights and Responsibilities, Human Rights at the University of Guelph, Promotion, Sales and Solicitations, Acceptance Use Policy and Guidelines. Copies of these policies will be made available by the Oversight Committee.

- e. There shall be no campaigning at any time in the offices of the Guelph Central Student Association, in University libraries, in areas or events where alcohol is served or in a classroom during a class period without first obtaining the permission of the professor responsible for the class. [To be determined: notice provision and "equal access"]. No campaigning shall be permitted in residences or off campus.
- f. Campaign materials shall be removed immediately after the polls close on April 9, 2010. All materials must be removed by [insert time and date].

Materials Approval:

- a. The Referendum Oversight Committee shall approve all campaign-specific materials prior to distribution.
- b. Campaign materials will include all physical materials, as well as any websites, Facebook groups/events, and other forms of online mass-messaging developed for use in the campaign.
- c. The Referendum Oversight Committee will not approve materials that: cannot be removed at the conclusion of the campaign; materials that are likely to damage property including stickers and paint applied to building surfaces; or cannot be monitored for compliance with all relevant Bylaws and referendum rules.
- d. For purposes of distribution of materials and display of posters under Section I of the Solicitations Policy, the Central Student Association will be the designated organisation.
- e. Campaigners shall provide the Referendum Oversight Committee with a written description of the proposed campaign material. The Committee shall provide in confidence a written approval or refusal of campaign materials. The Committee shall provide a response within 24 hours.
- f. The Referendum Oversight Committee shall be provided with a copy of all materials prior to its distribution during the campaign. The Committee shall retain a copy of all materials distributed during the campaign.

Rules for Posting:

- a. Each campaign shall be limited to a maximum of [insert number] banners.
- b. Banners shall be constructed and placed according to University building regulations.

- c. Banners, whether made from paper or any other material shall be restricted to a minimum total area of [x] square meters and a maximum total area of [x] meters.
- d. Each campaign shall comply with any building regulations set out by the University.
- e. No individual may remove, destroy, deface or damage campaign material.
- f. Both the “yes” and “no” sides shall have equal access to posting space on the CSA’s kiosks [specifics to be determined].
- g. Both the “yes” and “no” sides shall be provided equal access to an information table located in the University Centre [specifics to be determined].

Quorum:

- a. Enrolment at the time of [insert date] was [insert number] (combined full-time and part-time).
- b. The result of the referendum shall be determined by a 50 percent plus one majority of the votes cast.
- c. The quorum for the referendum shall be 20 percent of eligible voters, failing which the referendum is a nullity.

Campaign Expenses:

- a. Registered campaign sides may claim up to a maximum of [amount to be determined] in reimbursements for materials associated with the campaign.
- b. In order to be eligible for reimbursement, all expenses shall be documented and submitted to the Referendum Oversight Committee.
- c. All bills and documentation to be accepted shall be submitted to the Committee prior to [insert time] on [insert date] 2010. After this time, no money shall be paid to any person or campaign side for any reason.
- d. Reimbursements shall be provided to the parties concerned seven (7) days after voting ends, provided the parties are eligible.

Complaints:

- a. All alleged violations of Bylaw 1 or referendum rules shall be investigated and ruled upon by the Referendum Oversight Committee.
- b. A complaint must include the following:

- the specific Bylaw or referendum rule that is alleged to have been violated;
 - the specific campaign or individual that is alleged to be in violation;
 - the specific facts which constitute the alleged violation;
 - the evidence of these facts; and
 - the name and contact information, including e-mail address and telephone number, for the complainant.
- c. No complaint will be considered by the Referendum Oversight Committee unless it is in writing and is received within 24 hours of the alleged violation.
- d. Where a complaint is received and found to be complete, the Referendum Oversight Committee shall investigate the facts, and shall rule on the complaint within 24 hours thereof.
- e. Where a violation has occurred, regardless of cause or intent of the parties involved, and that violation has provided an unfair advantage to a campaign, the Referendum Oversight Committee may assign a penalty that:
- i. Fully counterbalances any unfair advantage gained;
 - ii. Penalizes the campaign for committing a violation; and
 - iii. Is of the same type or character as the advantage which was gained.
- f. Penalties available to the Referendum Oversight Committee include but are not limited to:
- i. The confiscation or destruction of campaign materials;
 - ii. Limitations, restrictions and prohibitions on any type of campaigning, for a specific period of time; and
 - iii. Disqualification.

[Specifics around potential penalties to be determined by the Committee.]

General Clause:

The Referendum Oversight Committee will obtain and insert necessary information in areas of this protocol that have been left blank.

In the event that the Committee cannot reach agreement on a particular issue within the deadlines set out in the protocol, a final determination of the issue shall be made by the Honourable James Chadwick, an independent third party, who has agreed to act in such capacity.