



This is the 2nd affidavit of
J. Coccola in this case and was
made on December 16, 2010
No. 10 4638
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

UNIVERSITY OF VICTORIA STUDENTS' SOCIETY

and

JOSÉ BARRIOS

PETITIONERS

AND:

CANADIAN FEDERATION OF STUDENTS

RESPONDENT

AFFIDAVIT #2 OF JAMES COCCOLA

I, James Coccola, Student, care of 3800 Finnerty Road, Student Union Building, PO Box 3035 in the City of Victoria, in the Province of British Columbia, make oath and say as follows:

1. I have been an undergraduate student at the University of Victoria ("UVIC") since September 2005 and currently hold the elected position of Chairperson of the petitioner, University of Victoria Students' Society ("UVSS"). As such, I have personal knowledge of the matters and facts set out herein, except where stated to be based on information and belief, in which case I believe those matters to be true.
2. Where I have used defined terms in my affidavit, I adopt the definitions as set out in the petition to this matter.
3. I have reviewed the first affidavit of Lucy Watson in this case that was sworn on December 9, 2010.

SWORN BEFORE ME AT THE City of)
Victoria, in the Province of British)
Columbia, this 16th day of December 2010)
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A Commissioner for taking Affidavits in)
and for The Province of British Columbia)

J. Coccola
JAMES COCCOLA

JOHN S. HEANEY
Barrister & Solicitor
HEENAN BLAIKIE LLP
737 Yates St. - Ste 514
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V8W 1L6

CONSTITUTION AND BYLAWS

Canadian Federation of Students

As amended at the May 2010 national general meeting

STATUTS ET RÈGLEMENTS

Fédération canadienne des étudiantes et étudiants

Tels que modifiés lors de l'assemblée générale nationale de mai 2010

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 a vote on certification 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.

Bylaw I

- v. A local student association's application for prospective membership, once accepted by the Federation, shall constitute a binding contract to pay prospective membership fees, as described in Section 2 b-vi, and conduct a vote on certification, 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 vote on certification in the Federation, in accordance with Section 4 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 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 oppose full membership in the Federation, prospective membership will immediately cease;
- xi. In the event that the vote fails to achieve quorum, prospective membership will be automatically extended and another vote on certification will be held within the subsequent six (6) months in accordance with Section 4 of this Bylaw; and
- xii. In the event that a prospective member fails to conduct a vote on certification 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 vote on certification 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 a vote 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 vote to certify as described in Article 4 of this Bylaw.
- iii. The individual members of the Federation collectively belonging to a member local association will have sole authority to initiate a vote on decertification, as described in Section 6 of this Bylaw, by submitting to the National Executive of the Federation a petition, signed by not less than twenty percent (20%) of the individual members of the association, calling for the vote.
- 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.

Bylaw I

- 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.
- vii. Each voting member is entitled to request, and must receive within 45 days of receipt of the request, an updated statement of financial position detailing all outstanding delegate and all outstanding membership fees provided that the voting member, as the agent for the Federation with respect to the collection of the membership fees, has provided the Federation with a full accounting of membership fees owed by it to the Federation.

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 Certify

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

a. Scheduling of the Vote

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

b. Oversight Committee

The vote 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 vote 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.

Bylaw I

c. Notice of Vote

Notice of the vote, that includes the 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.

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.
- iii. The campaign period is defined as the days the National Executive schedules for campaigning under Bylaw 6.b.i, and each and every day on which voting is to occur.

e. Campaign Materials

- i. Campaign materials shall include all materials developed specifically for the 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 vote.
- iii. The Federation website shall not be considered a campaign material unless it includes specific content about the vote.
- iv. The Federation's annual report, financial statements, research and submissions to government shall not be considered a campaign material.
- v. Campaign materials shall not be misleading, potentially libelous or false.

f. Voting and Tabulation

- i. Voting must be conducted by paper ballot and cannot be conducted in any other manner. Voting must take place 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.

It shall be the responsibility of the prospective member association to obtain and provide to the Oversight Committee, no later than seven (7) days in advance of the vote, a list of all of the individual members of the Federation eligible to vote. If the prospective member association is unable to obtain or provide such a list, voting shall be conducted through a double envelope system, whereby the ballot is placed in an unmarked envelope, which is placed in a second envelope, on which the voter writes her full name and student identification number. After voting ends, the envelopes will be compared to a list of the individual members who are eligible to vote. Duplicate ballots and ballots cast by ineligible voters shall be discarded. Once the validity of the votes has been verified, the outer envelopes will then be separated from the unmarked inner envelopes and tabulated.
- 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. Quorum

Quorum for any vote to certify shall be that of the member local association or ten percent (10%) of the individual members of the local association, whichever is higher.

h. Appeals

Any appeals of the results or rulings by the 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 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 to Decertify

The individual members of the Federation belonging to a member local association may vote on the question of continuing their membership, subject to the following rules and procedures:

a. Petition

As per Bylaw I, Section 3.a.iii a petition calling for a vote on decertification shall be signed by no less than twenty percent (20%) of the individual members of the member local association and delivered to the National Executive of the Federation.

The petition shall be worded as follows: "We, the undersigned, petition the National Executive of the Canadian Federation of Students to conduct a referendum on the issue of continued membership in the Canadian Federation of Students."

The original, unaltered petition must be delivered in its entirety to the National Chairperson, National Deputy Chairperson or National Treasurer, by registered mail. Petitions received that are not original copies, have been altered in any manner, or have been received by any means other than registered mail are not valid.

The petition may not contain any words or images, with the exception of those required by Bylaw 1.a and those required to indicate which fields a signatory must complete.

In order to be considered valid, a name on a petition must be reasonably legible, include the proper full name, be accompanied by a valid and corresponding student identification number, and a unique signature.

Bylaw I

An individual member may request that her name be removed from a petition. If the National Executive receives such a request in writing, before the conclusion of the verification process of the petition, the name must be struck from the petition. The name shall not be included in the total number of names on the petition.

b. Schedule

- i. The National Executive will have the sole authority to determine whether the petition described in Bylaw I, Section 6.a is in order. Within 90 days of receipt of the petition, the National Executive will review the petition to determine if it is in order and, if it is, in consultation with the member local, will schedule a vote. The National Executive will endeavour to schedule the referendum between 60 days and 90 days following its determination that the petition is in order. The scheduling of the referendum shall be subject to the following conditions:
 - there shall be no fewer than two (2) and no greater than five (5) days of voting; and
 - there shall be no less than seven (7) days and no greater than 21 days for campaigning, during which classes are in session, immediately preceding and during voting.
- ii. No vote on decertification may be held between:
 - April 15 and September 15; and
 - December 15 and January 15.
- iii. There shall be no more than two (2) votes on decertification in any three-month period.
- iv. No vote on decertification shall take place without compliance with Sections 6.b.i, 6.b.ii and 6.b.iii.

c. Oversight Committee

The vote will be administered by a four (4) person Oversight Committee composed of two (2) members appointed by the National Executive and two (2) members appointed by the applicable member local association. Within fourteen (14) days following the scheduling of the vote, the National Executive will appoint two (2) representatives to serve on the Committee and request in writing from the member local association the appointment of two (2) representative to serve on the Committee. The Oversight Committee shall be responsible for:

- i. establishing the notice requirement for the vote in accordance with Section 6.d of this Bylaw and ensuring that notice is posted;
- ii. approving all campaign materials in accordance with Section 6.f of this Bylaw and removing campaign materials that have not been approved;
- iii. deciding the number and location of polling stations;
- iv. setting the hours of voting in accordance with Section 6.g.ii of this Bylaw;
- v. overseeing all aspects of the voting;
- vi. tabulating the votes cast;
- vii. adjudicating all appeals; and
- viii. establishing all other rules and regulations for the vote.

d. Notice of Vote

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

e. Campaigning

- i. The member local association, the individual members from the member local association and the Federation not shall engage in any campaigning outside of the campaign period.
- ii. Only individual members and representatives of the member local association, representatives of the Federation and individual members and representatives of Federation member local associations shall be permitted to participate in the campaign.
- iii. The campaign period is defined as the days the National Executive schedules for campaigning under Bylaw 6.b.i, and each and every day on which voting is to occur.

f. Campaign Materials

- i. Campaign materials shall include all materials developed specifically for the campaign.
- ii. Materials produced by the Federation that promote campaigns and services of the Federation shall not be considered as campaign materials unless they include specific content about the vote.

- iii. The Federation website shall not be considered a campaign material unless it includes specific content about the vote.
- iv. The Federation's annual report, financial statements, research and submissions to government shall not be considered a campaign material.
- v. Campaign materials shall not be misleading, defamatory or false.

g. Voting and Tabulation

- i. Voting must be conducted by paper ballot and cannot be conducted in any other manner. Voting must be conducted at voting stations or, subject to the agreement of the Oversight Committee, by mail-out ballot.
It shall be the responsibility of the voting member local to obtain and provide to the Oversight Committee, no later than seven (7) days in advance of the vote, a list of all of the individual members of the Federation eligible to vote. If the voting member local is unable to obtain or provide such a list, voting shall be conducted through a double envelope system, whereby the ballot is placed in an unmarked envelope, which is placed in a second envelope, on which the voter writes their full name and student identification number. After voting ends, the envelopes will be compared to a list of the individual members who are eligible to vote in the referendum. Duplicate ballots and ballots cast by ineligible voters shall be discarded. Once the validity of the votes has been verified, the outer envelopes will then be separated from the unmarked inner envelopes and tabulated.
- ii. There shall be no less than sixteen (16) hours of polling over no less than two (2) and no more than five (5) days, except in the case of voting being conducted at a general meeting. In the event that voting is conducted at a general meeting, representatives of the Federation and Federation member local associations shall be extended full speaking rights in the meeting.
- iii. Unless mutually agreed otherwise by the member local association and the Federation, the referendum question shall be: "Are you in favour of continued membership in the Canadian Federation of Students?"
- iv. The member local association and the Federation shall each be permitted to appoint one (1) poll clerk for each polling station.
- v. The member local association and the Federation shall each be permitted to appoint one (1) poll scrutineer to oversee the counting of ballots.

h. Quorum

Quorum for any vote on decertification shall be that of the member local association or ten percent (10%) of the individual members of the local association, whichever is higher.

i. Appeals

Any appeals of the results or rulings by the Oversight Committee shall be adjudicated by an appeals committee (the "Appeals Committee") composed of one (1) member appointed by the member local association and one (1) member appointed by the Federation, neither of whom are members of the Oversight Committee.

j. Advance Remittance of Outstanding Membership Fees

In addition to required compliance with Sections 6a. to i. and k. to l, in order for a vote on decertification to proceed, a member local association must remit all outstanding Federation membership fees not less than six (6) weeks prior to the first day of voting.

k. Minimum Period Between Votes on Decertification

In addition to required compliance with Sections 6 a. to 6 j. and 6 l., in order for a vote on decertification to take place, no vote on decertification may have been held within the previous sixty (60) months for voting members comprised of university students and thirty-six (36) months for voting members comprised of college students, unless waived, by a two-thirds (2/3rds) majority vote of the National Executive.

l. Minimum Period Between Vote to Certify and Vote to Decertify

In addition to required compliance with Sections 6 a. to 6 k., in order for a vote on decertification to proceed, a vote to certify may not have been held within the previous sixty (60) months for voting members comprised of university students and thirty-six (36) months for voting members comprised of college students, unless waived, by a two-thirds (2/3rds) majority vote of the National Executive.

7. Procedure for Application for Withdrawal

- a. Following the holding of a vote in accordance with Bylaw 1, Section 6 pursuant to which it is determined that the relevant membership shall not continue, the applicable member local association may provide a letter in writing notifying the Federation of its intention to decertify from the Federation. Within ninety (90) days of the receipt of such letter, 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 decertification.
- b. At the opening plenary of the next general meeting of the Federation, ratification of the vote to decertify shall be put to a vote.
- c. The decertification shall take effect on June 30 following the ratification of the vote to decertify provided that all outstanding membership fees payable to such date shall have then been received by the Federation.