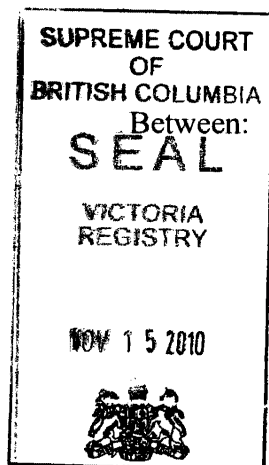


No.
Victoria Registry



In the Supreme Court of British Columbia

UNIVERSITY OF VICTORIA STUDENTS' SOCIETY

and

JOSÉ BARRIOS

Petitioners

And:

CANADIAN FEDERATION OF STUDENTS

Respondent

PETITION TO THE COURT

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

This proceeding has been started by the petitioners for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,

- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or
- (d) if the time for response has been set by order of the court, within that time.

(1)	The address of the registry is: 850 Burdett Avenue, Victoria, B.C. V8W 1B4
(2)	<p>The ADDRESS FOR SERVICE of the petitioners is:</p> <p>Heenan Blaikie LLP 2200 - 1055 West Hastings Street Vancouver, BC V6E 2E9 Attention: David Borins</p> <p>Fax number address for service (if any) of the petitioner(s): 1.877.282.4654</p> <p>E-mail address for service (if any) of the petitioners: dborins@heenan.ca</p>
(3)	<p>The name and office address of the petitioners' lawyer is:</p> <p>Heenan Blaikie LLP 2200 - 1055 West Hastings Street Vancouver, BC V6E 2E9 Attn: David Borins</p>

Claim of the Petitioners

Part 1: ORDERS SOUGHT

1. The Petitioners, University of Victoria Students' Society ("UVSS") and José Barrios make application for:
 - (a) A declaration that the Petition, as defined below, seeking a referendum on the question of UVSS's continued membership in the Respondent Canadian Federation of Students ("CFS") is valid and in order;
 - (b) A declaration that the Respondent's refusal to find the Petition in order is a breach of its bylaws and the binding contractual relationship between the Respondent and its members;
 - (c) A declaration that the CFS Counter-Petition, as defined below, is not in compliance with the CFS' bylaws, and is of no force or effect in connection with the validity or invalidity of the Petition;

- (d) An order requiring that a referendum on the question of the UVSS's and the University of Victoria undergraduate students' continued membership in the CFS be held on January 31, February 1, 2, 3, & 4, 2011 in accordance with the CFS bylaws as they were on November 4, 2009;
- (e) An order requiring the CFS to appoint two members to the Referendum Oversight Committee forthwith;
- (f) Costs of this Application; and
- (g) Such further and other relief as counsel may advise and to this Honourable Court seems just.

Part 2: FACTUAL BASIS

The Parties

1. The UVSS is the student association for all University of Victoria ("UVIC") undergraduate students. All undergraduate students who are enrolled at the UVIC are automatically members of the UVSS. The UVSS's mandate is to represent the interests of its members on a variety of issues. The UVSS's leadership consists of four executive members, eleven directors at large, and five advocacy representatives, who collectively comprise the twenty voting members on the UVSS board of directors. All representatives are elected by the undergraduate student body. The UVSS is a registered society under the *Society Act*, RSBC 1996, c.433 (the "*Society Act*").
2. Mr. José Barrios is undergraduate student at UVIC, a member of the UVSS, and an Individual Member (as defined below) of the CFS.
3. The CFS is a national post-secondary student lobbying organization comprised of various post-secondary student associations from across Canada, including the UVSS. The CFS has two types of members: post secondary student associations ("Voting Members") and the individual students attending at each post-secondary institution where the student association is a member of the CFS ("Individual Members"). The CFS is a registered non-profit corporation under Part II of the *Canada Corporations Act (Canada)*, 1970, c. C-32 and is an extra-provincially registered society in British Columbia.
4. The CFS has its own set of bylaws. The bylaws constitute a binding contract between the CFS and its membership. Where the CFS bylaws are referred to in this petition, the reference is the CFS bylaws as they were on November 4, 2009 unless otherwise specified.

UVSS's membership in the CFS

5. The UVSS is a Voting Member of the CFS and has been since 1985. As a result, every undergraduate student at UVIC is an Individual Member of the CFS. Under the CFS bylaws, Individual Members are not permitted to individually opt out of their

membership with the CFS. The CFS' membership fees are collected by UVIC from all Individual Members attending UVIC.

6. The CFS' operating budget is derived directly from the fees paid by Individual Members, such as the students at UVIC. Thus, the membership fees collected from the Individual Members attending UVIC fund a portion of the CFS's operating budget. During the 2008/2009 academic year, \$232,629.00 of membership fees were collected by UVIC from Individual Members attending UVIC and remitted to the CFS. During the 2009/2010 academic year, \$242,222.02 of membership fees were collected by UVIC from Individual Members attending UVIC and remitted to the CFS.

The CFS' bylaws provide for a defederation referendum process

7. The CFS' bylaws codify the process by which Individual Members and Voting members may terminate their membership in the CFS.
8. Under the CFS bylaws, the process for terminating membership in the CFS of both Individual and Voting Members is a collective decision of the Individual Members at a given post-secondary institution. The CFS bylaws provide that if the Individual Members vote collectively to end their membership in the CFS, both their membership and the membership of their student association will terminate.
9. The CFS bylaws provide that the Individual Members have the "sole authority" to initiate a referendum on the issue of defederation by a submitting a petition signed by at least ten percent of the Individual Members attending the respective Voting Member school.

The process to be followed after a petition is received.

10. The CFS bylaws set out the following process to be followed after a petition is received and before a referendum:
 - (h) the petition must be validated by the CFS within 90 days of receipt,
 - (i) the CFS National Executive, in consultation with the applicable student association, must schedule a referendum with no fewer than 2 and no greater than 5 days of voting;
 - (j) within 14 days of the scheduling a referendum, a Referendum Oversight Committee ("ROC") comprised of four members – two appointed by the applicable student association and two appointed by the CFS – must be formed;
 - (k) notice of the referendum must be given to the Individual Members at least 14 days before the first voting date of the referendum; and
 - (l) there must be at least 7 days and no more than 21 days of campaigning during which classes are in session immediately proceeding the referendum.

UVIC students initiated the referendum process

11. In September 2009 an independent group of UVIC undergraduate students, led by Mr. Barrios, (the “UVIC Students”), commenced the process mandated by the bylaws to initiate a referendum on the question of continued membership of UVSS and UVIC undergraduate students in CFS.
12. Specifically, the UVIC Students prepared and circulated a petition calling for a referendum to be held on the question of continued membership in the CFS (the “Petition”).

UVIC Registrar verified the Petition

13. Once signatures had been collected, Mr. Barrios sought the services of the UVIC Officer of the Registrar (the “Registrar”) to confirm that the signatures on the Petition were those of members of UVIC undergraduate students and that the total number of verified students represented at least ten percent of the UVIC undergraduate student population at the time.
14. The Registrar reviewed the signatures on the Petition and send Mr. Barrios a letter dated October 23, 2009 confirming that she had validated the signatures on the Petition and concluded that the signatures on the Petition amounted to over ten percent of the UVIC undergraduate student population (the “Registrar’s Letter”). The Register provided a copy of the Registrar’s Letter to Mr. Barrios.

Delivery of the Petition

15. On November 4, 2009 a package was served on the CFS containing a letter from Mr. Barrios advising the CFS that the Individual Members at UVIC had initiated a referendum on continued membership; enclosing a notarized copy of the Petition; and providing a copy of the Registrar’s Letter.

CFS Counter-Petition

16. In or around October 2009, a second petition began circulating at UVIC (the “Counter-Petition”).
17. The Counter-Petition bore the title “KEEP THE STUDENT MOVEMENT STRONG!” The Counter-Petition states that: “I believe that the University of Victoria Students’ Society should continue to work with students across BC and Canada through the Canadian Federation of Students to:
 - (m) “lobby for reduced tuition fees and student debt”;
 - (n) “demand environmentally sustainable campuses”;
 - (o) “fight student aid cuts”;

- (p) “improved transit services”;
 - (q) “get students services like a FREE International Student Identify Card”;
 - (r) “continue to work on campaigns such as “Where’s the Justice for Aboriginal Peoples” and the “No Means No” anti-date rape campaign”
18. The Counter-Petition then states, “Therefore, I call on the board of the UVic Students’ Society to defend student unity and to continue to fight for students rights through membership in the Canadian Federation of Students”.
 19. At the very end of the Counter-Petition’s language, there is a statement that indicates that by signing, the student does not want to have his or her name counted towards any petition to put to question membership in the CFS.
 20. The CFS bylaws, as they were at the time, did not recognize the use or validity of the Counter-Petition.
 21. The CFS bylaws were amended in May 2010, over six months after the Petition was served on the CFS, to include a process by which Individual Members may have their names removed from a petition seeking a referendum that they have signed.

Refusal to Authorize Referendum

22. In January 2010, the CFS wrote to the UVSS acknowledging that the CFS National Executive received the Petition submitted by Individual Members of the CFS. The CFS further acknowledged that “the petition appears to meet the minimum requirement set out in the Federation’s bylaws”. However, the CFS failed to schedule a referendum.
23. In the same letter, the CFS National Executive advised that it was in receipt of the Counter-Petition.
24. The deadline according to the CFS bylaws for the CFS National Executive to determine if the Petition was in order expired on February 2, 2010, 90 days after the Petition was served on the CFS.
25. As of February 2, 2010, the CFS National Executive had still not taken any steps to schedule a referendum.
26. After the expiry of the 90 day deadline to determine whether the Petition was in order and less than a month before the end of the Winter Session at UVIC, in late March 2010, the CFS wrote to Mr. Barrios to advise him that it had determined that the Petition had not reached the 10% threshold set out by the bylaws and was “therefore, deemed invalid”. The sole basis that the CFS relied on for finding that the Petition was invalid was its reliance on the Counter-Petition.

UVSS seeks a resolution

27. On July 23, 2010, counsel for the UVSS delivered a letter to the CFS asking that the CFS confirm that the Petition is in order, that a referendum on continued membership in the CFS be held, and that the CFS make appointments to the ROC as required by the CFS bylaws. The UVSS' counsel urged that this matter be resolved out of court.
28. The CFS's counsel replied on August 14, 2010 that the Petition is not in order because of the receipt of the Counter-Petition. The CFS's counsel did not provide any other reason for refusing to find the Petition in order or refusing to scheduling a referendum other than the CFS's reliance on the Counter-Petition.

Part 3: LEGAL BASIS

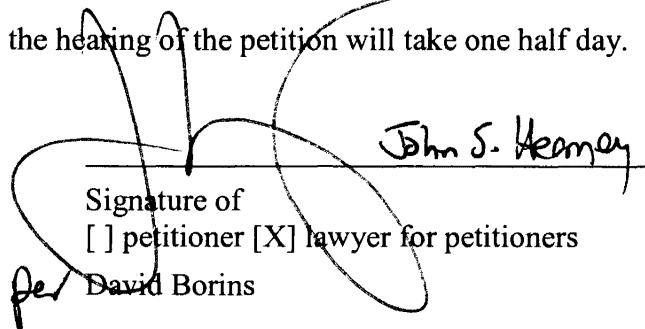
1. The CFS bylaws do not provide for any discretion concerning the process by which a referendum is initiated. Provided a petition with the correct wording under the CFS bylaws is delivered and the petition contains the appropriate number of signatures of Individual Members of the CFS, the CFS must follow the remaining steps for the referendum process outlined in its bylaws. The CFS or Individual Members are not entitled to take steps outside of the CFS bylaws to defeat the Petition.
2. The UVIC Students adhered to the bylaws of the CFS in all respects concerning the initiation of a defederation referendum.
3. In failing to declare the Petition in order within 90 days of delivery of the Petition; schedule a referendum in consultation with UVSS; appoint members to the ROC; and otherwise proceed with the referendum process, the CFS has violated its bylaws and breached its contractual obligations to its Voting Members and Individual Members.
4. The Petitioners will rely on Rules 2-1, 14-1, and 16-1 and the inherent jurisdiction of the court.

Part 4: MATERIAL TO BE RELIED ON

1. At the hearing of this petition will be read the affidavit of José Barrios sworn the 12th day of November, 2010 a copy of which is served herewith.
2. At the hearing of this petition will be read the affidavit of James Coccola sworn the 12th day of November, 2010 a copy of which is served herewith.

The petitioner estimates that the hearing of the petition will take one half day.

Date: November 15, 2010


Signature of _____
[] petitioner [X] lawyer for petitioners
per David Borins

To be completed by the court only:

Order made

[] in the terms requested in paragraphs of Part 1 of this petition

[] with the following variations and additional terms:

.....

.....

.....

Date: _____

Signature of [] Judge [] Master

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

UNIVERSITY OF VICTORIA STUDENTS' SOCIETY

and

JOSÉ BARRIOS

PETITIONERS

AND:

CANADIAN FEDERATION OF STUDENTS

RESPONDENT

PETITION

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