

In the Supreme Court of British Columbia

B E T W E E N:

UNIVERSITY OF VICTORIA STUDENT SOCIETY

and

JOSE BARRIOS

Petitioners

and

CANADIAN FEDERATION OF STUDENTS

Respondent

AFFIDAVIT #2 OF LUCY WATSON

I, Lucy Watson, of the City of Ottawa in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am the Director of Organising with the Canadian Federation of Students (hereinafter the “Federation”) and am responsible for overseeing membership-related matters for the Federation and as such have personal knowledge of the matters and facts hereinafter deposed to. Where my knowledge is based on information and belief, I have identified the source of my knowledge and verily believe the same to be true.

2. I have reviewed the Affidavit of Titus Gregory sworn December 16, 2010 as well as Affidavit #2 of Jose Barrios sworn December 16, 2010 and Affidavit #2 of James Coccoła sworn December 16, 2010.

(a) *Titus Gregory*

3. Titus Gregory (“Gregory”) is well known to the Federation. He has a long history of actively opposing membership in the Federation.
4. In his affidavit, Gregory only provides a partial summary of his past experience with the Federation. Prior to becoming a “researcher”, Gregory was formerly an undergraduate student at Simon Fraser University (“SFU”). During his time at SFU, he held various positions with the Simon Fraser Student Society (“SFSS”) and was also on the board of directors of the Peak Publications Society (“PPS”), which publishes the Peak, the student newspaper at SFU.
5. During his time at SFU, Gregory was highly critical of the Federation, both through his involvement with SFSS and his role as a director of PPS.
6. As Gregory notes at paragraph one (1) of his Affidavit, he was closely involved with an effort by the Kwantlen University College Student Association (“KUCSA”) in 2008 to secede from the Federation. Based on my experience with Gregory, his primary role with KUCSA was to discover or “create” damaging information about the Federation, regardless of its accuracy, and disseminate it as widely as possible.

7. As is noted in his Affidavit, Gregory was hired by the Post-Graduate Students' Society of McGill University ("PGSS") in September, 2009. Part of his mandate was to prepare the paper appended to his affidavit, titled *Solidarity for Their Own Good: Self-Determination and the Canadian Federation of Students*. This paper is highly critical of the Federation and contains numerous factual inaccuracies. I do not believe that this paper has been peer reviewed or published in any type of academic publication.
8. The PGSS reproduced Gregory's paper and distributed it across the McGill University campus and elsewhere in an attempt to generate discontent with membership in the Federation.
9. Gregory has never held a position on the National Executive of the Federation. Out of a total of fifty-eight (58) national general meetings of the Federation, Gregory has attended two (2), both in 2007.
10. Gregory seems to suggest that based on the "significant research" he carried out in order to prepare his paper, he is an authority on the practices of the Federation with respect to referenda. However, as noted above, Gregory has never held a position with the National Executive of the Federation. As I set out in my initial affidavit, it is the National Executive which receives a petition and makes the determination as to whether a petition is in order. Accordingly, Gregory is not in a position to know what the practices of the Federation are with respect to the determination of whether a petition is in order.

(b) *Practice of the Federation re: counter-petitions*

11. In their affidavits sworn December 16, 2010, James Coccola (paragraph 5) and Jose Barrios (paragraph 5) state that they have never been advised of the practice of the Federation to take into account the stated intention of individual members to have their names removed from a petition seeking a referendum on continued membership. Gregory states at paragraph thirteen (13) of his Affidavit that he is unaware of the Federation ever engaging in this practice prior to the fall of 2009.

12. When I stated that it has “always been the practice of the Federation to take into account the intention of individual members to have their names removed from a petition seeking a referendum on continued membership if the document expressing their intention to have their name removed is in compliance with the criteria” as set out in paragraph fifteen (15) of my original affidavit, it was in the context of how long the Federation has been receiving counter-petitions. Prior to the fall of 2009, the Federation had never received a counter-petition wherein members had requested that their names be removed from a petition seeking a referendum on continued membership. It was only in the fall of 2009 that the concept of a counter-petition was introduced to the National Executive. However, it has been the practice of the Federation since that time to take into account the stated intention of its members.

13. In the fall of 2009, there were six (6) different counter-petitions delivered to the National Executive of the Federation in response to a petition seeking a referendum on continued membership in the Federation at various schools across the country:

(a) Carleton University Student Association (“CUSA”)

Original petition delivered November 5, 2009

Counter-petition delivered November 9, 2009

(b) Glendon College Student Union (“GCSU”)

Original petition delivered November 24, 2009

Counter-petition delivered sometime after November 24, 2009

(c) Trent Central Student Association (“TCSA”)

Original petition delivered November 5, 2009

Counter-petition delivered sometime between November 5, 2009 and November 23, 2009

(d) Society of Graduate Students, University of Western Ontario (“SOGS”)

Original petition delivered October 19, 2009

Counter-petition delivered sometime between October 19, 2009 and December 23, 2009

(e) University of Victoria Students’ Society (“UVSS”)

Original petition delivered October 29, 2009

Counter-petition delivered November 13, 2009

(f) University of Guelph Central Student Association (“UGCSA”)

Original petition delivered October 19, 2009

Counter-petition delivered mid to late October, 2009

14. The first meeting of the National Executive after the receipt of the various petitions received above took place on January 8-10, 2010.

CUSA

15. In the case of CUSA, an individual delivered a petition to the National Executive of the Federation seeking a referendum with respect to continued membership in the Federation. As noted above, the Federation also received a second petition wherein some members of CUSA requested that their names be removed from the initial petition.
16. As a result, the National Executive took into account the intention of those members who wished to have their names removed from the initial petition. The removal of these individuals from the initial petition resulted in each petition having less than the 10% threshold required for a referendum.
17. CUSA accepted the decision of the National Executive that the initial petition seeking a referendum on continued membership was not in order.

GCSU

18. In the case of GCSU, the original petition delivered seeking a referendum on continued membership was determined not in order due to the fact that the individual who organized the petition was not a member of the GCSU or the Federation.

19. As a result, the Federation did not have to consider the counter-petition that had been delivered.

TCSU and SOGS

20. In both the case of TCSU and SOGS, members delivered a petition to the National Executive of the Federation seeking a referendum with respect to continued membership in the Federation. As noted above, the Federation also received a second petition in each case wherein some members of each organization requested that their names be removed from the initial petition.
21. In both cases, the National Executive took into account the intention of those members who wished to have their names removed from the initial petition. However, in both cases, the removal of these individuals from the initial petition did not have the effect of dropping the number of signatures on the petition below the 10% threshold. In both cases, the National Executive of the Federation determined that the initial petition was in order.
22. With respect to the referendum regarding SOGS continued membership, the National Executive is seeking information from SOGS in order to set a date for the referendum. Although the referendum on continued membership has not been scheduled with respect to TCSU's continued membership, I believe that dates for each referendum will be scheduled soon.

UGCSA

23. Gregory makes reference to the Application that was brought by the UGCSA with respect to continued membership in the Federation in the fall of 2009. It should be noted that Gregory is not a member of UGCSA (or UVSS for that matter). This Application was brought by the UGCSA after the National Executive of the Federation determined that he petition seeking a referendum on continued membership was not in order. This decision was made after the Federation received a second petition wherein some individuals who signed the first petition requested that their names be removed. The removal of these names from the initial petition reduced the number of signatures to below the 10% threshold.

24. Although Justice O'Connor granted the UGCSA application in part, in his endorsement released on March 25, 2010, he provided no reasons as to why he did so. Justice O'Connor subsequently delivered a letter on September 21, 2010 wherein he confirmed that no reasons would be issued (Exhibit "A").

25. The Federation has appealed the decision of Justice O'Connor to the Court of Appeal for Ontario. No date for the hearing of the appeal has been set. Attached as Exhibit "B" to my affidavit is a copy of the Notice of Appeal filed with the Court of Appeal for Ontario.

26. I make this Affidavit in support of the response to the petition made by the UVSS and for no other or improper purpose.

SWORN BEFORE me at)
the City of Ottawa in the)
Province of Ontario this)
31st day of December, 2010)


A Commissioner, etc...

Laura Kraft


Lucy Watson

SUPERIOR COURT OF JUSTICE

ONTARIO



COUR SUPÉRIEURE DE JUSTICE

A. GRENVILLE & WILLIAM DAVIS COURT HOUSE
7755 MURONTARIO STREET, SUITE 100
BRAMPTON, ONTARIO L6W 4T6
(905) 456-4835
FAX: (905) 456-4834

September 21, 2010

Mr. J. David-Sydor
Davis LLP
Fax No.: (416) 777-7412

Mr. G. Douglas
Gowling Lafleur Henderson LLP
Fax No.: (613) 788-3635

Ms. S. Barton, Mr. R. Teschner and Mr. D. Borins
Heenan Blaikie
Fax No.: (416) 643-6890

VIA FACSIMILE ONLY

This is Exhibit A to the

Affidavit of Lucy Watson

Sworn before me this 31st

day of December A.D. 2010



Laura Kraft A Commissioner, etc.,

Dear Counsel,

Re: University of Guelph Central Student Association v. Canadian Federation of Students et al

Justice O'Connor acknowledges receipt of Ms. Barton's letter of September 3.

Justice O'Connor's understanding of the arrangement between all counsel and the Court was that he was to complete reasons for his ruling if required and requested by counsel for further purposes, i.e. an appeal. Not having heard from any of the parties before the expiry of the appeal period, he caused the by then voluminous file to be excised of all but the essential material and sent to storage.

Thus, he indicates it would be very difficult at this late date to recollect the particulars and nuances of the arguments and positions of the various parties presented to the Court. He therefore does not anticipate providing written reasons in this matter.

Justice O'Connor regrets the misunderstanding on this issue.

Yours truly,



Bonnie Russell
Judicial Secretary

This is Exhibit B to the
Affidavit of Lucy Watson
Sworn before me this 31st
Court File No. _____
day of December 2010 A.D.
Laura Kraft A Commissioner, etc.,

COURT OF APPEAL FOR ONTARIO

BETWEEN:

UNIVERSITY OF GUELPH CENTRAL STUDENT ASSOCIATION

Applicant (Respondent in Appeal)

and

CANADIAN FEDERATION OF STUDENTS

Respondent (Appellant)

and

CANADIAN FEDERATION OF STUDENTS - ONTARIO

Respondent

APPLICATION UNDER Section 14.05(3)(d) and (h) of the *Rules of Civil Procedure* and Section 332 of the *Corporations Act*, R.S.O. 1990, c. C.38

NOTICE OF APPEAL

THE APPELLANT APPEALS to the Court of Appeal from the Judgment of the Honourable Mr. Justice O'Connor dated March 24, 2010, made at Guelph.

THE APPELLANT ASKS THAT:

1. The judgment of the Honourable Mr. Justice O'Connor in which he ordered that a referendum be held on the question of the University of Guelph Central Student Association's continued membership in the Canadian Federation of Students and in the Canadian Federation of Students-Ontario on April 7, 8 and 9, 2010 in accordance with a

referendum protocol attached to Justice O'Connor's judgment be set aside.

2. A declaration be made that the referendum held on the continued membership of the University of Guelph Central Student Association in the Canadian Federation of Students and in the Canadian Federation of Students-Ontario ordered by Justice O'Connor, which was held on April 7, 8 and 9, 2010, is null and void and of no force or effect.
3. The Canadian Federation of Students be awarded its costs of this appeal and of the application to be paid by the University of Guelph Central Student Association.

THE GROUNDS OF APPEAL are as follows:

1. The learned judge erred in failing to provide sufficient reasons with respect to his judgment so as to allow the Appellant to determine the basis upon which his judgment was made.
2. The learned judge erred when he ordered that a referendum be held on the question of the University of Guelph Central Student Association's continued membership in the Canadian Federation of Students and in the Canadian Federation of Students-Ontario on April 7, 8 and 9, 2010 in accordance with a referendum protocol attached to Justice O'Connor's judgment as Schedule "A".
3. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

1. Section 6(1)(b) of the *Courts of Justice Act*, R.S.O. 1990, c. C.43 which states that an appeal lies to the Court of Appeal from a final order of a judge of the Superior Court of Justice.
2. The Order of Mr. Justice O'Connor dated March 24, 2010 is a final order of a judge of the Superior Court of Justice.
3. Leave to appeal to the Court of Appeal is not required for a final order of a judge of the Superior Court of Justice.

Date: April 23, 2010

GOWLING LAFLEUR HENDERSON LLP
Barristers and Solicitors
160 Elgin Street, Suite 2600
Ottawa, Ontario
K1P 1C3

Todd J. Burke (LSUC # 333586B)
Gordon Douglas (LSUC # 363590)

Telephone: (613) 786-8652
Facsimile: (613) 788-3535

Solicitors for the Respondent (Appellant)

TO: **HEENAN BLAIKIE LLP**
Barristers and Solicitors
Bay Adelaide Centre
333 Bay Street, Suite 2900
Toronto, ON M5H 2T4

Sandra Barton (LSUC # 43220G)
Ryan Treleaven (LSUC # 55402T)

Telephone: (416) 643-6940
Facsimile: (416) 360-8425

Solicitors for the Applicant (Respondent in Appeal)

AND TO: **DAVIS LLP**
Barristers and Solicitors
1 First Canadian Place
100 King Street West
Suite 5600,
Toronto, ON M5X 1E2

Jonathan Davis-Sydor (LSUC # 42831R)

Telephone: (416) 941-5397
Facsimile: (416) 777-7412

Solicitors for the Canadian Federation of Students-Ontario