

Dalhousie Student Union Judicial Board

In The Matter Of

Lara Morris and Beth Beattie

-and-

The Elections Committee Decision

Heather Bryan (On behalf of the Judicial Board) — Upon hearing the applicant and respondent in this matter the Judicial Board has reached the following decision:

Due Process

The issue before this Board was not whether the candidates, Lara Morris and Beth Beattie, violated election rules. Whether the candidates did so or not has become irrelevant due to the actions of the Elections Committee in dealing with any such allegations. This Board was solely concerned with the procedural fairness of the Committee's reprimand of the candidates for alleged election breaches. As stated in a previous decision by this Board, although the Dalhousie Student Union constitution makes no express accommodation for the principles of fundamental justice, this Board recognizes that any constitution governing a democratic organization must contain implied guarantees of due process protection. It is the Board's view that the Elections Committee failed to meet even minimal standards of procedural fairness and fundamental justice during the process of reprimanding the Morris/Beattie team.

The Chief Returning Officer (CRO), on behalf of the Elections Committee, established a procedure of reprimand in the case of an election breach, an act within her power according to By-law IX, section 6. In the case of a breach, a verbal warning would initially be given to the candidates, followed by a written warning, leading finally to punitive action. The CRO admitted before this Board that although she established this procedure on behalf of the Committee, she did not follow it.

The sequence of events, beginning with the March 8 meeting and ending with the Committee's March 12 decision to withhold the Morris/Beattie reimbursement, clearly illustrates the incompetence of the Elections Committee. At the meeting of March 8, issues of concern were raised by the Committee and responded to by the Morris/Beattie team. The CRO indicated to the Board that she intended the

minutes of that meeting to be typed up and to represent a written warning, but this was not communicated to Morris/Beattie. In fact, no such minutes were ever produced. In addition, the committee failed to address the legitimate concerns raised by the candidates as a result of this meeting, despite several written requests to do so.

The March 10 decision to disqualify Morris/Beattie, which the CRO referred to at the Judicial Hearing as "a mistake," appears to have been reached in a cloud of confusion and incompetence. Firstly, the decision to disqualify was not preceded by a written warning, a procedure the CRO herself had established. Secondly, the CRO made no inquiries as to customary practices regarding disqualification even though several people accessible to her, including one of her own Committee members, had such knowledge. Finally, the Committee failed to consult with the Union lawyer, Tim Hill, until after the decision to disqualify had been made and released to all three teams. The release of this tentative decision had serious repercussions for the Morris/Beattie team. This decision was apparently reached without foresight on the part of the CRO or the Committee.

After consultation with Union counsel, the decision to disqualify was reversed and the Committee decided to withhold \$100.00 of the reimbursement. Morris/Beattie were informed of this decision on March 12. No reasons for this decision were given to the Board, other than that in hindsight, disqualification was not justified. This Board recognizes that the withholding of part or all of the reimbursement is within the authority of the Committee, pursuant to Regulation 5, section 23. This Board also recognizes the committee's authority, under By-law X, section 6 to make rules which ensure the effective administration and good conduct of the election. However, once rules are established, the Committee is obliged by the principles of fundamental justice inherent in the constitution to use due process in the application of such rules. It is the Board's view that neither of these principles were adhered to by the Elections Returning Officer or the Committee.

28 March 1990

Recently, the Judicial Review Board considered a decision by the Elections Committee to fine the Morris/Beattie Presidential campaign team \$100.00. What was found was a serious breach of procedural fairness and fundamental justice with regards to the reprimand of Morris/Beattie. For this we apologize.

In striking the Elections Committee it was the intent of the DSU Council to administer the recent campaign in as fair and direct a manner as possible. Unfortunately, problems with the way the Chief Returning Officer handled the reprimand procedure arose. We hope the outcome of the decision of the Elections Committee did not besmirch the characters of either Ms. Morris or Ms. Beattie. If so, the DSU government and all persons involved in the electoral process

must share responsibility.

We also hope the new Council will understand these concerns as deeply as we do, address the issues raised and institute procedures that ensure procedural fairness prevails in future DSU elections.

Yours truly,
David W.
Shannon
President