

**UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

REPORT NUMBER 47 OF THE ELECTIONS COMMITTEE

March 8, 2007

To the University Affairs Board,
University of Toronto.

Your Committee reports that it met on March 8, 2007 at 4:30 p.m. in Simcoe Hall, room 229, as Elections Overseers, in accordance with Chapter III (10) of the *Election Guidelines, 2006*, with the following members present:

Mr. Stephen Smith (In the Chair)
Mr. Robin Goodfellow
Professor William Gough

Regrets:

Mr. P.C. Choo
Dr. Shari Graham Fell

Secretariat:

Dr. Anthony Gray (Chief Returning Officer)
Ms Cristina Oke (Deputy Returning Officer)
Ms Mae-Yu Tan (Deputy Returning Officer)

In Attendance:

Ms Saswati Deb, respondent
Mr. Grahame Rivers, respondent
Ms Wendy Shen, respondent

Observers:

Mr Paul Bretscher
Ms Coralie D'Souza
Mr Benedict San Juan

In this report, all items are reported to the University Affairs Board for information.

Purpose of Meeting

The meeting was requested by Dr. Gray, the Chief Returning Officer (CRO), to hear five complaints against election candidates in the Full-time Undergraduate Student Constituency I. All of the complaints concerned alleged violations of rules of campaigning set out in the *Election Guidelines, 2007*. Two complaints were directed against Ms Wendy Shen, two against Ms Saswati Deb and one against Mr. Grahame Rivers.

Dr. Gray had conducted investigations into each of the respective matters and referred the five complaints to the Overseers for decision.

**Complaint #1: Allegations of Misuse of the University Crest against Ms Wendy Shen
brought forward by the CRO**

Dr. Gray summarized the allegation of the use of campaign material explicitly forbidden by the *Elections Guidelines*. During an investigation, he had observed the use of the University crest as

a background image on Ms Shen's campaign website, which was a clear violation of the *Guidelines for Campaigning*, Appendix C.5. Dr. Gray had charged Ms Shen and had called the Election Overseers to consider the matter. Upon being contacted by Dr. Gray and asked to remove the University crest from her website, Ms Shen had done so immediately and had expressed her apologies.

Invited to comment, Ms Shen acknowledged that the crest had been used on her website and apologized to the Committee. She explained that although she had been involved in the construction of her website, she had focused on the content of the text. Her website developer had added the visual images without Ms Shen's input. Ms Shen stated that she had not carefully examined her website prior to it being published on the internet and had not been aware that the crest had been used.

Complaint #2: Allegations of a Poster Violation against Ms Wendy Shen

Dr. Gray reported that he had also conducted an investigation into the allegation that some of Ms. Shen's campaign posters violated the rules outlined in the University's "*Procedure on Distribution of Publications, Posters, and Banners*". After investigating the allegation, Dr. Gray had charged Ms Shen under the *Elections Guidelines* with violations of the *Guidelines'* regulations on posterage. The Election Overseers had already been called to consider other allegations, so would also be asked to consider the second charge against Ms Shen.

Dr. Gray led the Overseers briefly through his investigation, and presented some photographs of Ms Shen's posters in unauthorized areas of Victoria University buildings. The photographs had been submitted to Dr. Gray by a student, Ms Emma Dsouza, and showed Ms Shen's campaign poster located on walls along stairwells and inside and outside some doorways and glass windows. Dr. Gray informed the Overseers that at the All Candidates' meeting held on February 12, 2007, at which Ms Shen had been present, he had distributed the "*Procedure on Distribution of Publications, Posters, and Banners*". Section 3.01 of that Procedure stated:

Organizations are requested to use public bulletin boards, which are located throughout campus buildings. Notices, advertisements, posters, flyers, or documents of any kind, shall NOT be attached to any wall, door, window, column, washroom, building sign, garbage or recycling can inside any University building, unless prior approval has been received from the Manager, Property Management.

Dr. Gray commented that the photographs showed several instances of violations of the *Guidelines*. While there was no evidence to demonstrate that the posters had been placed in the photographed locations by the candidates themselves, the candidates could nevertheless be held responsible if the Overseers judged that the posters were in prohibited locations and that they had been placed there on behalf of the candidates. According to the *Guidelines* (p. 16, Chapter VI.(a). (viii)), by signing the nomination papers, candidates signified their agreement that those who worked for him or her agreed to abide by the rules and provisions outlined in the *Guidelines*. Similarly, the *Guidelines* at Chapter VI.(b).(ii). state "Candidates shall be responsible for the actions, and violations stemming from such actions, of any associated party, however occurring."

Dr. Gray also referred the Committee to Report Number 43 of the Elections Committee (March 9, 2006, p.3). In that report, the Committee had addressed considerations around posterage and had indicated that while it recognized that violations of the University's policies on the placement of posters occurred with some frequency outside the framework of elections, the frequency of the offence was neither an acceptable defense of the behaviour nor a mitigating factor. Dr. Gray

added that Governing Council candidates should be held to the highest standards, and suggested that the matter should perhaps be highlighted even further in the 2008 *Guidelines*.

Invited to comment, Ms Shen stated that she had contacted the President of the Victoria University Students' Administrative Council (VUSAC) to inquire about acceptable locations for postering in Victoria University buildings. She had been informed that it was permissible to post materials on walls inside the Wymilwood Building. Ms Shen indicated that she had requested permission before postering, and had also asked a don and some friends at the Annesley Hall residence to put up posters on her behalf.

Complaint #3: Allegations of a Poster Violation against Ms Saswati Deb

Dr. Gray informed the Committee that he had conducted an investigation into the allegation that some of Ms Deb's campaign posters violated the rules outlined in the University's "*Procedure on Distribution of Publications, Posters, and Banners*". After investigating the allegation, Dr. Gray had charged Ms Deb under the *Elections Guidelines* with violations of the *Guidelines*' regulations on postering. The Election Overseers were called to consider the charge against Ms Deb. Dr. Gray led the Overseers briefly through his investigation, providing explanations for the charges that were similar to those included in Complaint # 2 above. Photographs had been submitted to Dr. Gray by a don at Victoria University, Ms. Carrie Charters, showing Ms Deb's campaign poster located on walls outside of Victoria University buildings. Dr. Gray pointed out that the Facilities and Services policy had been violated, as its *Procedures* clearly indicated that posters were prohibited from being placed on outdoor walls.

Invited to comment, Ms Deb stated that as a student governor who had met with the Elections Committee in 2006, she was very familiar with the *Elections Guidelines*. She emphasized that she would not deliberately violate the *Guidelines*, and that she had taken specific steps to ensure that she would not violate them, by putting up all of her posters herself. She explained that she had a reciprocal agreement with another candidate, Alex Rascanu, to place their posters next to each other on the St. George and University of Toronto at Scarborough campuses. Ms Deb insisted that she had always posted one of Mr. Rascanu's posters next to hers on the St. George campus, using tacks, not tape. For this reason, she thought it was most unusual that the photographs provided showed her poster only, without an accompanying poster of Mr. Rascanu, and that the posters had been attached with tape. Ms Deb stated that she had not placed her posters in the locations shown in the photographs and suggested that someone else had intentionally done so.

Complaint #4: Allegations of Misrepresentation of Facts in Campaign Materials against Ms Saswati Deb

Dr. Gray explained that Ms Charters had brought forward another allegation of campaign violation against Ms Deb concerning a claim made by Ms Deb on her campaign poster. Dr. Gray had recommended that the Election Overseers also consider that allegation when it met. Ms. Charters alleged that the statement in which Ms Deb claimed that she had served on the "Board of Representatives" for VUSAC in 2005-06 was false. Dr. Gray then briefly led the Overseers through his investigation which included interviews with Ms Charters and Ms Kayley Collum, the current president of VUSAC.

Invited to comment on the allegation, Ms Deb explained that she had served on the Board of Regents in 2005-06. As part of those duties, she and other students had been invited by VUSAC to serve on various committees. Those students had met regularly to report back to VUSAC on their assigned tasks. Ms Deb stated that the VUSAC organizers of the meetings frequently referred to the student group as the "Board of Representatives", even though the group was not

officially named. For that reason, she had used that name on her campaign poster, as she felt it best described the committee on which she had served. Ms Deb indicated that she had a wealth of experience and had no need to present false information in an attempt to obtain student votes.

Complaint #5: Allegations of a Poster Violation against Mr. Grahame Rivers

Dr. Gray stated that he had conducted an investigation into the allegation that some of Mr. Rivers' campaign posters violated the rules outlined in the University's "*Procedure on Distribution of Publications, Posters, and Banners*". After investigating the allegation, Dr. Gray had charged Mr. Rivers under the *Elections Guidelines* with violations of the *Guidelines*' regulations on postering. The Election Overseers had already been called to consider other allegations, so would also be asked to consider the charge against Mr. Rivers.

Dr. Gray led the Overseers briefly through his investigation, providing similar material to that included in Complaint # 2 above. Photographs had also been submitted to Dr. Gray by Ms Dsouza showing Mr. Rivers' campaign poster located on walls and inside and outside some doorways and glass windows in Victoria University buildings. In addition, Mr. Rivers' posters had also been placed directly on glass windows in a Woodsworth College building.

Invited to comment, Mr. Rivers indicated that his campaign team had been overly enthusiastic in putting up posters and had placed them in unauthorized locations, despite carrying a copy of the *Guidelines* with them. Mr. Rivers apologized to the Overseers and stated that the posters had since been removed. While he acknowledged the posters that had been placed on windows were a clear violation of the *Guidelines*, he had believed that by giving his posters to dons in the Annesley Residence they would be placed in permissible locations.

The Chair thanked the respondents for responding to questions. The non-members then withdrew from the meeting, and the Committee moved *in camera* to deliberate, with the CRO and Secretariat remaining.

Decisions

The Committee was unanimous in reaching the following decisions.

(a) Grahame Rivers: Postering Violations

The Committee determined that the postering rules contained in the *Election Guidelines 2007* have been violated, and noted that Mr. Rivers himself had accepted responsibility for the fact that some of his posters had been placed in unauthorized locations. In the opinion of the Committee, this constitutes a serious violation of the *Election Guidelines 2007*.¹

¹ In principle, a *Severe* violation is one characterized by a deliberate and substantial effort to undermine the elections process; in contrast, a *Serious* violation is one which contravenes the spirit and letter of these *Guidelines* in an attempt to gain an unfair advantage in the elections process but does not itself constitute a substantial effort to undermine that process. The Elections Overseers have the sole authority to determine the category into which a particular violation falls, guided by the following observations, and acknowledging that the degree of a violation may influence its classification:

- (i) *Serious* violations might include, but are not limited to:
 - violations of the regulations concerning posters and information technology outlined in Appendix B of these *Guidelines*;
 - including, in the course of a campaign, material explicitly forbidden by these *Guidelines* (e.g. University Crest);

Penalty:

The Committee assesses the following sanctions against Mr. Rivers:

- (1) That pursuant to Appendix C.12.(j).(iv) of the *Election Guidelines, 2007*, the details of these violations, together with the name of the offender, be published on the University's elections websites for the duration of the election; and**
- (2) That Mr. Rivers' reimbursement for campaign expenses be reduced by \$250 for the current campaign in the Full-time Undergraduate, Constituency 1 election for Governing Council.**

(b) Wendy Shen: Campaign Violations

(i) Postering Violations

The Committee determined that the postering rules contained in the *Election Guidelines 2007* have been violated, although Ms Shen believed that she had followed the rules in the *Guidelines*. In the opinion of the Committee, this constitutes a serious violation of the *Election Guidelines 2007*.

(ii) Misuse of University Crest

The Committee determined that Ms Shen had violated Guideline 5 of Appendix C: *Guidelines for Campaigning*, which states that the University crest may not appear on campaign literature, materials or websites. In the opinion of the Committee, this also constitutes a serious violation of the *Election Guidelines 2007*.

-
- violations of any restrictions imposed by University faculties, departments, or administrative services;
 - inappropriate use of property, including but not limited to chalk messages on sidewalks, adhesive stickers/signs affixed to furniture and/or equipment;
 - unauthorized solicitation of votes, including but not limited to speaking in class without the prior permission of the instructor;
 - the use in a campaign of any service or tangible benefit conferred on a candidate by virtue of his/her holding any position in any organization on campus. This includes, but is not limited to, office supplies, equipment, advertising space, secretarial service and funding;
 - unauthorized use of University resources, including but not limited to printing, copying, office supplies, equipment and secretarial service;
 - deliberate misrepresentation of facts;
 - spending marginally over the maximum spending limit as set by the *Election Guidelines*;
 - making frivolous and/or vexatious campaign violation allegations.
- (ii) *Severe* violations might include, but are not limited to:
- spending grossly over the maximum spending limit as set by the *Election Guidelines*;
 - intentionally misrepresenting campaign expenditures;
 - attempting to interfere in the election process as regulated by these *Guidelines*;
 - soliciting Student Information System (SIS) and/or Personal Identity Number (PIN) numbers.

Penalty:

The Committee has determined that Ms Shen has committed two serious campaign violations. According to Appendix C.13.(1) of the *Elections Guidelines, 2007*, the Committee has the authority in such circumstances to disqualify the candidate from the election. However, in the present matter, the Committee uses its discretion not to disqualify Ms Shen as a candidate in the Governing Council election, as, in its view, it is very doubtful that the combined effect of the violations will have a material effect on the outcome of the election and that, taken together, the violations are not grave enough to warrant disqualification.

The Committee therefore assesses the following sanctions against Ms Shen:

- a. **That pursuant to Appendix C.12.(j).(iv) of the *Election Guidelines, 2007*, the details of these violations, together with the name of the offender, be published on the University's elections websites for the duration of the election;**

And

- b. **That Ms Shen's reimbursement for campaign expenses be reduced by \$350 for the current campaign in the Full-time Undergraduate, Constituency 1 election for Governing Council: \$250 for the postering violations and \$100 for the misuse of the University crest.**

(c) Saswati Deb: Campaign Violations

(i) Postering Violations

The Committee determined that no violation of the *Election Guidelines, 2007* had occurred. The Committee accepted Ms Deb's testimony that she had not placed the offending posters. The Committee was prepared to make the inference that someone other than the candidate (and her affiliates) had placed the posters based on the evidence of the manner in which the posters were attached, their suspicious location beneath an unflattering advertisement and the absence of the running-mate's poster.

(ii) Misrepresentation of Facts

The Committee determined that no violation of the *Election Guidelines, 2007* had occurred. Although the Board of Representatives to which Ms Deb referred was not formally named, the Committee accepted Ms Deb's testimony that the group was recognized within the Victoria College community.

(d) Recommendations for Election Guidelines 2007

The Committee makes the following recommendations for the *Election Guidelines 2008*:

- (i) THAT campaigning in residences be reviewed with a view to determining whether such campaigning is appropriate.
- (ii) THAT the determination of three serious violations by a candidate be considered as grounds for immediate disqualification.

The meeting adjourned at 5:50 p.m.

Secretary

Chair

March 12, 2007