



2009 WUSA Election Appeal Committee Investigation

Committee members: Ms Megan Huisman, VP(A) Representative (Chair)
Ms Amy Harper, WUSA Honorary Solicitor Representative
Mr Michael Gleeson, WUSA Trustee Representative

Executive Officers: Dr Nancy Huggett / Mr Pete Randles

Introduction

The 2009 WUSA elections were conducted in accordance with the WUSA Regulations Governing Elections (the Regulations). Voting took place from 6-8 October 2009. Elections were conducted online via the e-elections provider, Registries Ltd. The Returning Officer was Mr Vic Miglionico.

Following the close of voting on 8 October, the preliminary results were declared to the candidates on Friday, 9 October and a five academic day appeal period took effect. On 15 October formal appeals in accordance with section 8.1.2 of the Regulations were lodged by Ms Kate Schouten and by Ms Jess Di Blasio. Submitted with the appeals were seven signed statements and three statutory declarations from witnesses supporting the allegations.

Allegations

1. Both formal appeals allege that members of the REAL STUDENTS and I LIKE TO PARTY election tickets offered cans of Red Bull drinks in return for voting for those tickets. If proven, this would be unacceptable behaviour as set out in Section 6.1.1.3 of the Regulations: *“Coercing, intimidating, harassing or bribing members to vote for a specific candidate or group of candidates shall result in disciplinary action”*.
2. Five of the witness statements also allege that candidates from the REAL STUDENTS and I LIKE TO PARTY election tickets voted on behalf of students, in some cases by obtaining students’ login details in return for cans of Red Bull. These activities, if proven, would be in breach of section 5.1.5 of the Regulations: *“No proxy or postal voting shall be allowed”*.

The allegation in the witness statements that login details were obtained for candidate’s to vote on students’ behalf is a breach of section 4.6.4 the University’s IT Acceptable Use Policy: *“A user must not use an account set up for another user nor make any attempts to find out the password of a facility they are not entitled to use ... A user must not attempt to find out the authentication secret of any other user”*. If proven, this allegation could result in a further investigation under the Student Conduct Rules.

Process

The Committee convened on 30 October, 3 November and 5 November 2009.

The investigation took the form of:

- Review of: Appeal documentation
Electoral Regulations
Election Results
List of Group Ticket members
Voting numbers from each day of the WUSA election
- Interviews with: Vic Miglionico, Returning Officer
Kate Schouten, Appellant
Jess Di Blasio, Appellant and witness
Ms Sara Howson, Witness
Mr Jonathon Childs, Witness
Mr Brendan Cook, Witness
Mr Matt Dawson, Respondent
Mr Daniel Crameri, Respondent
Mr Nick Rouen, Respondent
- CCTV footage was sought but could not be provided as the relevant footage had been recorded over in accordance with usual CCTV monitoring practices.
- The UniBar Manager was asked if he or any of his staff witnessed any of the alleged behaviour on 8 October. While the Manager responded that he had seen candidates in the bar neither himself nor the staff on duty noticed any “Red Bull for votes” activity.

Findings

Allegation 1: Proven

The Committee is satisfied, on the balance of probabilities, that the first allegation is proven.

Based on the evidence provided to the Committee, including statements at interview from appellants, witnesses and respondents, the Committee is satisfied that the following candidates in the REAL STUDENTS and I LIKE TO PARTY election tickets engaged in unacceptable behaviour in accordance with 6.1.1.3 of the Regulations:

Mr Daniel Crameri (REAL STUDENTS)
Mr Matt Dawson (I LIKE TO PARTY)
Mr Dale Sperring (REAL STUDENTS)
Mr Nick Rouen (REAL STUDENTS)

Allegation 2: Not Proven

The Committee cannot be fully satisfied that the second allegation is proven.

- It was clearly established by witness statements, and interviews with witnesses and respondents themselves that candidates from the REAL STUDENTS and I LIKE TO PARTY election tickets completed a great proportion of the electronic voting process on behalf of eligible student voters. The Committee heard that online voting process

was straightforward and that candidates from the above tickets filled in the voting forms so as to “make it easier” for students who were “not really interested” in the election process.

- However, while witnesses spoke of candidates exchanging students’ login details for Red Bull, none were able to categorically confirm that what was being written on scraps of paper and given to the candidates were in fact student login and password details. The respondents maintained that the students logged into SOLS themselves and pressed the “submit” button at the end. While this behaviour clearly does not comply with the “secret ballot” process stipulated in 5.1.1 of the Regulations, a finding of full proxy voting, defined as “a vote that is cast by one entity on behalf of another”, could not be proven to the satisfaction of the Committee.
- The Committee found that there had been widespread use of laptops by candidates in all the major election tickets during the 2009 WUSA elections. The Committee could not be certain that assistance with voting had not been provided by candidates from other election tickets so was unable to rule against the REAL STUDENTS or I LIKE TO PARTY tickets in this regard.

Remedies

The Committee has determined that under 6.1.2 of the Regulations, candidates from the REAL STUDENTS and I LIKE TO PARTY tickets acted or encouraged others to act contrary to the Regulations.

Given the seriousness of the breach, the Committee determines that, in accordance with Sections 6.2 (a), (b) and (c) of the Regulations:

1. All candidates on the REAL STUDENTS and I LIKE TO PARTY election tickets that were elected are declared not duly elected.
2. All candidates from the REAL STUDENTS and I LIKE TO PARTY election tickets are disqualified from the election and the primary votes given to the REAL STUDENTS and I LIKE TO PARTY candidates shall be deleted from the vote count.
3. Those candidates who have the most primary votes after the REAL STUDENTS and I LIKE TO PARTY candidates have been removed from the vote count are declared duly elected.

Given the above remedies, the declared elected results are provided at Attachment 1.

Additional Comments

The Committee’s investigation into the allegations raised the following ancillary issues relating to the election process:

Laptop Voting

During the course of the Committee’s investigation into the allegations, several witnesses, appellants and respondents noted that the Returning Officer had ruled that laptops could be used in the 2009 WUSA election as they encouraged students to participate in the election process.

However, it appears that the use of laptops in this election also led some candidates to “assist” students in the voting process to a degree that compromised the “secret” nature of the ballot. The Committee recommends that WUSA and the University consider the use of laptops in further WUSA elections and whether specific clauses concerning laptop voting be introduced into the Regulations

Electoral Regulations

During the course of the investigation, the Committee noted that the Appeal Committee provisions are not very specific. The Committee suggests that WUSA consider amending the Regulations to include provisions for electing a Chair and for ensuring principles of natural justice are applied in all appeal investigations.

Candidate Awareness

During the course of its investigation, the Committee learnt that Mr Crameri had only read the Regulations once and had not attended the ballot draw and subsequent briefing session held by the Returning Officer after the close of nominations. The Committee suggests that it be mandatory for all candidates standing for election to the WUSA Council to attend a briefing on acceptable and unacceptable campaign behaviour.

Promotional Activities during the election period

The Committee was concerned about the blurred line between Red Bull promotional activities and election campaigning by the REAL STUDENTS and I LIKE TO PARTY tickets during the election, particularly in relation to the visit of Red Bull promotions crew to the Campus East Student Residence on Tuesday 6 October. The Committee suggests the University may wish to examine the arrangements for promotional activities during election campaigns to ensure that there is no potential conflict of interest between commercial promotional activities and campaigning by any candidate or ticket in the student elections.

CCTV Footage

During the course of its investigation, the Committee requested to view relevant CCTV footage from the UniBar. It was later established that recordings are deleted after two weeks and the relevant footage could not be provided. The Committee suggests that bar staff be informed of the CCTV policy, including the specified retention period for CCTV footage so that footage of incidents can be retained for future investigations.

Sincerely



Ms Megan Huisman (Chair)
Academic Registrar

Date: 5 November 2009.