

Decision of the Elections Appeals Committee

Date: Wednesday, March 6, 2019

Members: Kareem Ibrahim (Speaker of Council), Pacifique Ineza (Appellant's Representative), Madeleine Gustavson (Elections Committee's Representative)

Matter: Appealing Penalty 2 of 3 for Kuol Akuechbeny, Presidential Candidate

1. Decision

- a. After a thorough discussion with the Appellant's Representative and the Elections Committee's Representative, it was decided that the Elections Appeals Committee will not order the Elections Committee to reconsider the decision to penalize Kuol for the campaign violation in question (emailing the membership of several clubs without Blind Carbon Copying (BCC) the recipients after receiving explicit instruction from the Elections Committee regarding how to avoid this infraction).
 - i. Note that this penalty was appealed on the grounds that Articles 8(15)(c) and 8(15)(d) were satisfied.

2. Reasons

- a. This appeal was grounded in two issues, namely Articles 8(15)(c) and 8(15)(d) of AMS Code.
 - i. With respect to Article 8(15)(c) concerning allegations of obvious unfairness, it was found that the penalty in question was not obviously unfair, as it is proportionate to the infraction in question.
 1. In addition, it was noted that Kuol can still have the members of the clubs which sought to support him support his campaign through other means.
 2. It was also noted that Kuol was given explicit instructions regarding how to avoid the infraction in question; this makes it much harder to justify his infraction.
 - ii. With respect to Article 8(15)(d) concerning allegations that the penalty in question is not consistent with other penalties assigned to similar infractions during this campaign period, it was found that the "similar infraction" in question, that of Presidential candidate Chris Hakim, was not similar enough to justify this allegation.
 1. It was noted that Chris only emailed club executives, whereas Kuol emailed the entire list of club members of various clubs found on Clubhouse. These members are not involved in the governance of said clubs, which makes this infraction much more serious.
- b. Other considerations which were factored into this decision include:
 - i. That not being able to seek any endorsements for the remainder of the campaign period is a major impediment to one's campaign;
 - ii. That Kuol's mistake was an honest one, not committed intentionally; and
 - iii. That overturning a decision of the Elections Committee requires a grave error of judgement on the part of the Elections Committee.

3. Dissenting Opinion

- a. Pacifique noted the following findings, which forms the basis for which they do not agree with the ruling of the Elections Appeals Committee:
 - i. 1) Kuol's mistake was an honest one and he came forth to the Elections Committee in a very transparent, proactive manner;
 - ii. 2) Kuol's error was comparable to Chris' error, and to have inconsistent penalties is unfair; and
 - iii. 3) Prohibiting Kuol from seeking any endorsements whatsoever for the remainder of the campaign period is an extreme and harsh penalty, and significantly impairs Kuol's team from advancing their campaign goals.
- 4. Conclusion
 - a. In conclusion, the Elections Appeals Committee will not be ordering the Elections Committee to reconsider this decision. Please do not hesitate to get in touch with the Chair, Kareem Ibrahim, at councilspeaker@ams.ubc.ca if you have any questions or concerns regarding this ruling.