

Report of the Ethics and Accountability Committee into an alleged conflict of interest involving the Vice-President External Affairs

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Committee members:

- Katherine Feng, Vice Chair
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Introduction

At its meeting of November 25, 2020, AMS Council (“Council”) was provided with a letter from the AMS President (“President”) [Annex A], outlining his concerns that an initial internal investigation had revealed that the Vice-President External Affairs (“VP External”) was in violation of the AMS’ conflict of interest rules.

Council also received a letter from the VP External [Annex A], in which he apologized for not taking active steps to avoid a conflict of interest and provided further information and context.

Council referred the case of the VP External and any apparent conflict of interest to the Ethics and Accountability Committee (“Committee”) for review.

Between January 14 and March 29, the Committee met seven times to determine process, discuss the allegations, and hear from witnesses.

Summary

The VP External was in an apparent conflict of interest when AMS Events and ThePlug organized the Giveaway and Firstweekplug, and when he provided related invoices to the AMS Events Manager. In no situation was he in a real conflict of interest.

The Committee finds that the VP External erred by not setting clear boundaries between his job, his extracurriculars, and his personal relationships. The result was a perception that the VP External was not acting with due care and regard for the integrity of the AMS.

Recommendations to Council

- i. VP External
 - a. The VP External should issue an apology for his failure to avoid an apparent conflict of interest.
- ii. Council

- a. Council should examine:
 - i. How to ensure that incoming Directors, including Executives, are provided with sufficient information about their obligations regarding conflicts of interest;
 - ii. Whether to establish a system whereby incoming Directors, including Executives, publicly declare any conflicts of interest;
 - iii. Whether the AMS has sufficient internal procedures (such as conflict of interest screens) to ensure that Directors, including Executives, are able to avoid conflicts of interest; and
 - iv. Whether a member of AMS staff should be designated with responsibility for being a point of contact on issues regarding conflicts of interest.

Allegation and Findings

- i. Firstweek collaboration and emailed invoice

- a. Allegation

In his letter to Council, the President raised concerns that the VP External had inappropriately used his AMS email to provide an invoice to the AMS Events Manager on behalf of a videographer, for work done for ThePlug Vancouver (“ThePlug”) and AMS Events.

The President suggested that these actions were in violation of AMS Code of Procedure Section II, Article 1, Subsections (3), (10), (11), and (13) [Annex B] because of the VP External’s connections to ThePlug. The VP External is the founder and president of ThePlug Vancouver. Per Article 2.2 of the same section, Article 1 applies to members of the Executive in their capacity as Executives.

- b. Initial position of the VP External

In his letter to Council, the VP External apologized “for not taking active steps to avoid the email-related conflict of interest” and “for not identifying the conflict of interest earlier on.”

- c. Notes

- i. Inconsistent material facts

Where the Committee heard inconsistent material facts, it has based its findings on the assessed credibility of witnesses and what it considers to be the most reasonable account.

- ii. Nomenclature

The VP External is referred to by his executive title throughout the report, including when discussing his role at ThePlug. This approach was chosen to maintain consistency. It does not mean that the Committee is making a determination regarding in what role he was acting at any particular moment.

d. Factual findings

ThePlug is an events, media, and marketing organization, founded in August 2019. Its collaboration with AMS Events predates the VP External's election to his AMS position in March 2020.

Throughout the 2020 election period and subsequently, the VP External's role with ThePlug was well-known.

In July 2020, AMS Events reached out to the VP External, in his capacity with ThePlug, to explore potential collaboration opportunities between AMS Events and ThePlug's Instagram page UBC 2024. This led to a giveaway event, (the "Giveaway") in which participants could enter a draw to win an iPad or AirPods (the "Apple products") by following both the AMS Events and ThePlug Instagram accounts. ThePlug had previously planned a giveaway prize but was able to evenly split the cost with AMS Events.

AMS Events and ThePlug also collaborated on creating and sharing a video series ("Firstweekplug") targeted at incoming UBC students. The VP External was AMS Events' main person of contact at ThePlug in deciding to create this project. Once the decision was made to proceed with Firstweekplug, the VP External handed off direct involvement with the project to other members of ThePlug. ThePlug arranged for a videographer, who had previously worked for AMS Events and had done work for ThePlug, to film the series. AMS Events agreed to pay the costs of the videographer but did not directly hire him.

The outreach by AMS Events that led to the Giveaway and Firstweekplug was not done at the instigation of the VP External. Nor did the VP External, in his Executive or Director roles, take any official action to foster or otherwise influence the partnership.

Among other items, the VP External's duties include responsibility for community outreach, and responsibility for liaising with, and representing the Society on, external organizations [Annex C].

Responsibility for AMS Events does not fall under the mandate of the VP External. AMS Events reports to the AMS Managing Director, who reports to the Executive Committee. Decisions regarding AMS Events activities are not made by the Executive Committee.

In the VP External's opinion, the Firstweekplug partnership principally benefited AMS Events. The VP External stated in his letter to Council that ThePlug made no direct or indirect monetary gain out of this relationship. The VP External has explained that while ThePlug increased its followers through these collaborations, it has not directly monetized this increase. The Committee nonetheless believes ThePlug did gain a benefit from this partnership. The cost of the Giveaway was shared equally between AMS Events and ThePlug. Due to ThePlug's role in negotiation, the cost of the videographer was significantly reduced compared to what AMS Events would typically pay on its own. ThePlug does not ordinarily compensate work on projects monetarily. Following this principle, the cost of contracting the videographer was paid solely by AMS Events. ThePlug gained further exposure and may be able to monetize its increased

follower base in the future. ThePlug may have benefited by building its portfolio of events, which would help build its reputation.

The videographer provided the invoice for Firstweekplug directly to ThePlug, as they had arranged his involvement in the project. The VP External used his AMS email to forward that invoice, and the invoice for the Apple products, to the AMS Events Manager. The AMS Events Manager had previously confirmed the costs of the videographer and the Apple products. He does not believe that the fact that they were provided by the VP External through an AMS email had any influence over his decision to submit them for reimbursement. Similarly, to the VP External's knowledge, the AMS Events Manager had no discretion in reimbursing those invoices, nor would he otherwise be induced into taking any particular course of action by virtue of having received the invoices and receipts from the VP External rather than directly from the videographer.

Around October 2021, the Ubyyssey sought information from the AMS about the relationship. At the same time, social media commentary about potential impropriety in the relationship between the VP External, AMS Events, and ThePlug prompted the President to undertake an internal investigation. The investigation comprised a search of the VP External's emails for any communication regarding ThePlug, resulting in the discovery of the email to the AMS Events Manager containing the invoices. This triggered the President and VP External's letters to Council.

e. Conflict of interest provisions in the AMS Code of Procedures

i. Section II, Article 1.10

1. This section provides two circumstances in which a Director or Executive may be in a conflict of interest.

First, there is a conflict of interest where the Director or Executive exercises an official power or performs an official duty or function and at the same time knows that in doing so there was an opportunity to further his private interest.

This is not applicable to the VP External. He did not, in his roles as VP External or Director, exercise an official power or perform an official duty or function in relation to the partnerships between AMS Events and ThePlug. While the use of his official AMS email to share the invoice and receipts complicates the matter by raising the spectre that the VP External was acting in an official function, the Committee is of the opinion that the VP External was not truly exercising an official duty or function in providing the documents to the AMS Events Manager. He had no official AMS duty or function in regard to the Giveaway, Firstweekplug or in regard to the reimbursement of the invoices.

Second, a Director or Executive is in a conflict of interest on an issue if the issue concerns relations with an organization outside the Society and if the Director serves on the board of that organization.

This is not applicable to the VP External. While this definition is potentially open-ended, the Committee has interpreted it to refer to a situation where the AMS is evaluating or establishing formal relations with another organization, rather than the type of temporary, event-based partnership at issue here. The VP External was not in a conflict of interest per this section on the issue of the Giveaway, Firstweekplug, or the invoices, because they concerned one-time events with ThePlug, rather than substantially concerning relations between the organizations.

ii. Section II, Article 1.11

1. This section provides that an apparent conflict of interest exists where there is a reasonable perception, which a reasonably well-informed person could properly have, that the Director or Executive's ability to exercise an official power or perform an official duty or function, in their capacity as a Director or Executive, may have been affected by their private interest.

This is applicable to the VP External. A reasonably well-informed person could properly have the perception that the VP External, in exercising his official powers, may have been influenced by his private interest in ThePlug. First, a reasonably well-informed person could believe that the VP External had the ability to affect the AMS's relationship with ThePlug. A reasonably well-informed person has access to public information about the VP External's official duties; they do not know the intricacies of the AMS's hierarchy of reporting relationships. It is a reasonable perception that the VP External's official duties – namely, his responsibility for community outreach and liaising with external organizations – as well as his role in the AMS Executive Committee, provided opportunities to influence AMS Events' relationship with ThePlug. Secondly, given that there was no conflict of interest screen or any other similar attempt to separate the VP External's AMS role from his role at ThePlug, and given that there were collaborations between AMS Events and ThePlug which benefited ThePlug, it is a reasonable perception that the VP External's ability to exercise his official powers, duties, and functions may have been affected by his private interest. A reasonably well-informed person may also have the perception that in providing invoices to the AMS Events Manager for work done in collaboration with ThePlug, the VP External may

have been affected by his private interest in ThePlug, in that he would not have provided the invoices were it not for his involvement with ThePlug and his interest in ensuring the videographer engaged by ThePlug was reimbursed for his work.

iii. Section II, Article 1.3

1. This section requires that no Director or Executive may, in their official role, participate in any decision, exercise an official power or perform an official duty or function in which they have either a conflict of interest or an apparent conflict of interest.

This is not applicable to the VP External. While the VP External was in an apparent conflict of interest, per Article 1.11, he did not, in his official role, participate in a decision, exercise an official power, or perform an official duty or function with regard to those conflicts. As discussed above, the VP External was not involved in a decision, nor any exercise of official duties, regarding Firstweekplug or the Giveaway. The provision of the invoices similarly was not the exercise of an official duty or function.

f. Conclusion

The VP External was in an apparent conflict of interest when AMS Events and ThePlug organized the Giveaway and Firstweekplug, and when he provided related invoices to the AMS Events Manager. In no situation was he in a real conflict of interest.

The Committee found no evidence of bad faith on the part of the VP External with regard to the Giveaway, Firstweekplug, or the invoices.

However, while the VP External's failure to recuse himself from anything to do with the ThePlug was not a real conflict of interest, the Committee believes that the VP External's actions demonstrate a lack of due care and regard for the perception of integrity at the AMS.

ii. Halloween pub crawl

a. Allegation

The involvement between AMS Events and ThePlug in the organization of the Halloween pub crawl raised questions about potential impropriety related to the role of the VP External.

b. Factual findings and conclusion

The Halloween pub crawl was instigated by Vancouver Tasting Tours, which separately reached out to, and made arrangements with, AMS Events and ThePlug. AMS Events and ThePlug did not establish a partnership but were instead brought together by the third party. There is no

indication that the VP External was involved in the event in an improper way, or that there was an apparent or real conflict of interest.

iii. The VP External's multiple roles

The VP External raised his point of view with the Committee that he erred by not setting clear boundaries between his job, his extracurriculars, and his personal relationships. The Committee agrees.

The VP External, through his prior work at the AMS and because of his prior work with the AMS through ThePlug, had pre-existing relationships with members of the AMS Events team. On multiple occasions since the VP External's election, members of the AMS Events team spoke with the VP External about issues related to ThePlug. However, the Committee did not find any other specific incidents that raised the possibility of a conflict of interest. The VP External is of the opinion that these conversations were independent of his position at the AMS, and that in no way as VP External did he influence or advocate for greater involvement of AMS Events with ThePlug. Nonetheless, the Committee is concerned by the VP External's failure to create a formal separation between his roles.

The greatest negative impact has been reputational damage to the AMS, reflected in negative media articles and various online posts.

The VP External could have and should have avoided this situation by making a public declaration at the beginning of his term that he would recuse himself from any involvement with any activities between ThePlug and AMS Events. He could have also taken steps within the AMS to create a conflict of interest screen to ensure that he was not inadvertently involved in any discussion or planning regarding any such partnership or cooperation.

The VP External acknowledged that questions about a potential conflict of interest arising from the VP External's role with ThePlug were first raised during his campaign for the role. The Committee also understands that this potential conflict of interest was raised with the VP External informally during his transition. The VP External should have taken action upon his election and during his transition to familiarize himself with the conflict of interest rules provided for in Code and to ensure that he could not be perceived to be in a conflict of interest. The President also raised with the VP External the potential of a conflict of interest in August 2020. This should have been a further opportunity to ensure he could not be perceived to be in a conflict of interest.

Structural issues at the AMS

Ordinarily, all incoming Directors, including Executives, are required to sign a Statement of Office [Annex D], which provides some direction regarding Directors' duties and obligations. Due to circumstances emanating from the coronavirus situation, this form was not provided to Directors this year. The VP External signed an Executive Contract [Annex E], which was administered by AMS Human Resources ("HR") and the Managing Director. The terms and conditions outlined in the Executive Contract, which HR reviews with incoming Executives,

includes a requirement to avoid any business-like activity which conflicts with the Executive's role (9.4) and a requirement to adhere to applicable rules and policies (9.5).

The Committee believes that there is a lack of clarity for incoming Directors, including Executives, regarding their conflict of interest duties and responsibilities. For many Directors and Executives, this is their first professional job. With that comes a steep learning curve. The Committee believes that more can be done to ensure that Directors are familiar with these responsibilities. In particular, consideration should be given to the possibility of creating greater resources in the AMS for Directors in this area, both during transitions and by creating permanent resources regarding conflict of interest obligations. To the Committee's knowledge, the VP External was informally reminded of conflict of interest obligations during his Executive transition and by the President later in the term. Permanent resources would have the advantage of being available for reference at any time and would likely allow for clearer and more accurate expectations.

The Committee believes that this particular situation was entirely avoidable, and indeed would likely have been avoided had the rules regarding conflicts of interest been impressed upon the VP External more directly and earlier in his term. However, there is a lack of clarity within the AMS as to who is responsible for the onboarding and training of incoming Directors and Executives in this respect. Clearly establishing responsibility in this area would help in ensuring that incoming Directors and Executives are fully aware of their obligations.

Justification for recommendations to Council

i. Recommendations regarding the VP External

The Committee believes that it is appropriate that Council request the VP External to issue a public apology for his apparent conflict of interest.

In making this recommendation, the Committee has considered the following aggravating factors: the reputational harm to the AMS; the VP External's culpability in not being sufficiently familiar with his conflict of interest provisions; and that the VP External was previously warned about the potential conflict of interest and did not take preventative action.

It has also considered the following mitigating factors: there was no real conflict of interest; the VP External's apology in his letter to Council; the VP External's clear contrition for his actions; the lack of structure at the AMS for ensuring Directors and Executives are aware of their conflict of interest obligations; that AMS Events and ThePlug have not worked together since the allegations were first raised; proportionality of the breach; and the impact of these allegations on the VP External over the past five months.

ii. Recommendations regarding structural issues at the AMS

The Committee believes that Council should take action to prevent any such situation from arising again, principally by ensuring that every incoming Director and Executive is made sufficiently familiar with their conflict of interest obligations.

Community

The Committee also wishes to make a broader comment about campus culture. AMS members have high standards for their elected representatives, and rightly so. Executives are reimbursed for their work, and it is expected that they do their work diligently and pay heed to the AMS' reputation. However, Executives are still fellow students and members of our community, who usually run for these positions in order to positively contribute to our campus. The Committee has seen a tendency to instinctual distrust of the AMS and its Executives. The AMS must do more to combat this and to address the root issues that result in this sense of disconnect. AMS members would also benefit from greater attempts to engage with the Society in a collaborative and collegial manner.