

UVSS Elections: Complaint 3

Breach of Electoral Policy 6.1 c, h, I and 8.3 a ii, vi.

Background

1. Complaint 3 alleges that the respondent:
 - a. Named a candidate in their campaign material (6.1 c);
 - b. Made reference to a candidate in their campaign material (6.1 h);
 - c. Accepted an endorsement from an on-or off-campus group (6.1 i);
 - d. Defamed a candidate in their campaign material (8.3 a ii);
 - e. Repeatedly and willfully broke the policies of the Electoral Office (the “Office”) (8.3 a vi.).
2. The subject matter of this complaint is two posts (the “Posts”) on an Instagram account (the “Second Account”) that was run by the respondent prior to the electoral event. It appears, according to the respondent, that several people have access to the Second Account.
3. The respondent, in their reply to Complaint 3, claims that they separated entirely from the Second Account when the electoral event began. Therefore, they argue, any policy-breaking that occurred was done by a third party and cannot be attributed to them and their campaign. The respondent wrote that *“on March 15th I stopped communicating with (the Second Account) as well as having them change the password to the account so I couldn’t access it.”*

Analysis

4. The issue at the heart of this complaint is whether the posts are attributable to the respondent. If they are, the Office must analyze each allegation made by the complainant. If they are not, the subject matter of this complaint pertains to a third party, not to the respondent, and the issue is therefore would question the respondents breach of possible endorsement.

The Second Account: Introduction

5. Analysis of the Posts from the Second Account begins with this: the respondent claims that they did not author the Posts, did not have access to the account, and did not know about the Posts. The Office takes this claim seriously. The electoral process depends on the honesty, integrity, and truthfulness of everyone involved. The Office begins every analysis with a simple assumption: what candidates tell us is true.

6. In the situation at hand, it is possible that the statements from both the complainant and the respondent are true. It is possible that a candidate was defamed by the Second Account, and it is possible that the respondent had no control over this. However, given the seriousness of the allegations, and the evidence provided by the complainant, the Electoral Office has no choice but to weigh the evidence.

The Second Account: Evidence

7. The complainant provided evidence in the form of screenshots allegedly showing that the Second account was, at the time of the Posts, still in control of the respondent.
 - a. The respondent's campaign Instagram page read, at the time of the Posts, "*I run (the Second Account).*"
 - b. According to a screenshot sent to the Electoral Office at 5:20 PM on March 15th, the bio of the Second Account read "*I'm running in the UVSS Elections*" with a link to the campaign profile of the respondent.
 8. The Office has further reason to believe the Second Account was, at the time of the Posts, run by the respondent.
 - a. The respondent claims authorship and control of the Second Account in their platform.
 - b. An individual contacted the Office and alleged that the respondent, when told that they could not use the Second Account for campaign purposes, expressed a desire to 'find a loophole' in order to 'post unbiased content' surrounding the elections.
 - c. Unusual phrasing in the respondent's reply bears a striking resemblance to phrasing used by the Second Account.
 - i. In the respondent's reply to the Office, they write: "I assume that many of the people I worked with on the page were frustrated at how biased the Martlet article was and published their own article to *satirize* them"
 - ii. On March 16th, the day after the respondent claims to no longer be in contact with the Second Account, the Second Account wrote: "This piece was a manifestation of our own frustration with the Martlet for their obviously one-sided article slamming (respondent's name). *It's a satire.*"
- This use of the word "*satire*," while not blatantly incorrect, is unusual. Satire is commonly understood in connection with parody – satire is humorous, satire is funny and witty; satire is usually a 'take' on the thing being satirized. Definitions emphasize the use of 'humor, irony, and exaggeration.' The Posts do not satirize the Martlet, as the word is commonly understood. They simply disagree with, or

contradict, the Martlet. It bears mentioning that the definition of ‘satire’ includes ‘ridicule,’ and it could be argued that the Posts ridicule the Martlet. Ultimately, though, it remains that this is an unusual if not incorrect use of the word ‘satire,’ and the word is used in this unusual way **both in the respondent’s reply to the Office and in a post authored by the Second Account on Tuesday the 16th.**

- d. The usage pattern of the word ‘satire’ is, of course, circumstantial. Nevertheless, it would likely be admissible evidence in a court of law per the fundamental rules of evidence in Canada. Basic evidentiary rules hold that evidence is admissible if it is **relevant to a material issue** (in this case, the issue is authorship/control) and not subject to exclusion under any other rule of law or policy. Lacking other guidance from the EPM, the Office will consider any and all relevant evidence as defined by these rules.

The Second Account: The Tuesday Emails

9. On Tuesday, March 16th, in reference to another complaint, the Office contacted the respondent. The Office told the respondent to remove a link to their campaign profile from the bio of the Second Account. The Office and the respondent exchanged multiple emails, culminating in the respondent agreeing to the removal of the link.
10. At 1:39 PM on Tuesday, March 16th, the respondent sent the following email:

This is (respondent’s name),

I’ve removed it and attached the following screen shot

11. The email included a screenshot (the “Screenshot”) of the home page of the Second Account showing the link had been removed from the bio. The time on the Screenshot was 1:33.
12. The Office believes that the Screenshot indicates that the respondent had control of the Second Account on March 16th, despite their claim that they cut off contact with the Second Account the day prior. In their reply to this complaint, the respondent claimed that they had no control over or contact with the Second Account as of the 15th and **“hasn’t been in contact with them since.”**
 - a. In the email chain, the respondent made no mention of lacking control over the account;
 - b. In their final email, the respondent wrote ***“I’ve removed it;”***

- c. The respondent included a screenshot of the Second Account profile. In the Screenshot, the “edit profile” button is available, showing that the taker of the Screenshot had full control of the Second Account;
13. It is clear from the Tuesday emails that the respondent either **had contact with other authors of the Second Account on the 16th, contrary to their reply to this complaint**, or that the respondent **had control of the Second Account on the 16th**.
14. Whether the former or the latter is true, the Office will therefore give the respondent’s claims less weight, as it is clear they were not truthful in their response.
15. Note that the Posts had already been made at the time of the Screenshot, as is evidenced by them appearing in the Screenshot itself.

Findings

16. The Office is left in the unfortunate position of weighing the evidence introduced above against the word of the respondent.
17. The EPM does not define a standard of proof. Resolving complaints is up to the discretion of the Office. The Office must decide if it is sufficiently convinced that the complainant’s allegations are true. The respondent did not include any evidence or witnesses to support their claims.
18. Lacking a defined standard of proof, an objective balance of probabilities is perhaps the fairest test. That is: would a reasonable person consider it more likely than not that the Posts were authored by the respondent, given the evidence introduced above? Our Office received 6 emails from other UVSS members concerning the authorship of the Posts, assuming they were made by the respondent.
19. Weighing the many pieces of evidence against the reply from the respondent leads the Office to conclude that it is more likely than not that the respondent did author, or had control over the posting of, the Posts. To recap as simply as possible, a reasonable person would likely conclude that the person whose bio states “I run the Second Account,” and who is referred to in the first person by the Second Account (“I am running for UVSS Elections”) is, indeed, running the Second Account.
20. Therefore, the Posts are attributable to the Respondent, and the analysis of the rest of the complaint must proceed.

6.1 c: Did the respondent name a candidate in their campaign material?

21. The Posts are attributable to the respondent, and the posts clearly mention a candidate by name. The only issue is whether the Posts constitute campaign material.

22. The EPM defines campaign material as ‘verbal, digital, or physical (material) produced by or on behalf of a candidate, proponent, or opponent to promote their campaign.’
23. The definition must be expanded somewhat here, as the Posts do not promote the respondent’s campaign as much as they criticize their opponent. It is commonly understood that ‘attack ads,’ as they are commonly known, are part of typical political campaigning. Logically, any media that makes a vote for an opponent less likely encourages voters to choose the other option. The Office concludes that the Posts constitute campaign material.
24. Therefore, the respondent breached section 6.1 c of the EPM.

6.1 h: Did the respondent make reference to a candidate in their campaign material?

25. As the Posts are campaign material, and the Posts make reference to a candidate, the respondent breached section 6.1 h of the EPM.

6.1 i: Did the respondent accept an endorsement from an on-or off-campus group?

26. In a twist of circular reasoning, the previous conclusion that the Second Account is attributable to the respondent means that the Second Account cannot possibly be a third party – it is, simply, the respondent.
27. Therefore, the respondent did not breach section 6.1 i of the EPM.

8.3 a ii: Did the respondent defame a candidate?

28. Defamation is, per the EPM, a major campaign infraction. The EPM defines defamation as:

Any intentional false communication that is written (libel), spoken (slander), or otherwise transmitted, including via social media, that harms a person’s reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person.

29. The key elements of defamation are:
 - a. Intentionality;
 - b. Falsity;
 - c. Transmission of communication;
 - d. Harm of reputation/decrease of respect/inducement of negative opinions or feelings against a person.
30. To find that a candidate defamed a person, each element of the offence must be met.

31. The preceding discussion of the Second Account confirms intentionality. The Office, in concluding that the Posts are attributable to the respondent, necessarily concludes that the Posts were intentional.
32. Two lines in the Posts are enough for the Office to conclude that false information is present:
 - a. “(a candidate)... plans to change nothing.”
 - i. The candidate’s platform makes their election priorities clear and makes it clear that they do not, in fact, plan to change nothing. This statement is false.
 - b. “Effectively making (them) the “Nobody Candidate”
 - i. No candidate in the UVSS Elections is a “Nobody Candidate.” To say the candidate is such a candidate is false. The Electoral Office strongly condemns such statements.
33. The EPM mentions social media as a viable means of communicating defamatory material. The Posts are on Instagram. Per the EPM, they were clearly ‘communicated.’
34. Discussion of whether the Posts had the potential to harm the candidate’s reputation or, alternatively, induce negative feelings is simplified by the lines discussed above. There is no requirement for the Posts to be defamatory in every line; the presence of any defamatory language is enough for the Office to conclude that the Posts were defamatory. The line – and, it should be pointed out, the sentence fragment – “Effectively making (them) the ‘Nobody Candidate’” is a clear, intentional attempt to induce negative feelings. No further analysis is necessary for the Office to conclude that the Posts are defamatory.
35. Therefore, the respondent violated EPM 8.3 a ii.

Sanctions

36. The consequences for the respondent’s breach of 6.1c and 6.1 h are moot. The EPM gives the Office no discretion as to the result of a major campaign infraction: the candidate who committed the infraction must be immediately disqualified.
37. The respondent must remove any posts about the candidate from the Second Account immediately.
38. Consequently, the respondent, Hazam Nasir, is disqualified from the 2021 Spring Electoral Event.

The complainant or the respondents may appeal this decision to the Elections Adjudicator within one business day. If the decision is appealed, the sanctions noted above apply until overturned on appeal. As per EPM 8.7.e, until an appeal is concluded, a decision of the CEO to disqualify a

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candidate is held in abeyance. This means that if/or while an appeal is pending, the candidate is not permitted to attend the forum or continue their campaigning.

Emma Hamill

Chief Electoral Officer