

UVSS Elections: Complaint 5

Breach of Electoral Policy 8.3 a ii

Background

1. Complaint 5 alleges that the respondent defamed a UVSS member in their campaign material (8.3 a ii).
2. The subject matter of this complaint is one post (the "Post") and comments on an Instagram account (the "Second Account").
3. The respondent, in their reply to Complaint 5, claims again 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 surrendered control of the UVic tip to the people who ran it me, I had them change the password, and I have not spoken with them since"* and that they *"set it up that way to maintain electoral integrity."*
4. In response to the defamation claims against the respondent, they claim that they did not act with malice in their interview with the Martlet and that the resulting article that was published in fact defames the respondent, hurting their campaign and reputation. They reiterate that they cannot be held accountable for the Second Accounts actions.
5. Per the reasoning in Complaint 3, the Office concludes that the secondary account in question is attributed to the respondent. Although the respondent has been disqualified, with the severity of this complaint the office has conducted an investigation for this secondary disqualifiable offence.
6. Additional evidence has been supplied since the ruling of Complaint 3 and therefore will be analyzed below.

Analysis

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)."*
8. Upon receipt of the redacted Complaint 5, the respondent changed their account to express that they *"ran (the Second Account)."*

9. In addition to the reasons laid out in the rulings of Complaint 3, the Office has further reason to believe the Second Account was, at the time of the Posts, run by the respondent.
 - a. An individual contacted the Office and alleged that they were blocked by both accounts simultaneously,
 - b. An individual submitted screenshots that both accounts use the same email and phone number.
10. The respondents response to Complaint 5 has very similar language that is used by the Second Account.
11. When asked by the Office, the respondent chose not to submit evidence that would support their claims.

Findings

12. The Office is left in the unfortunate position of weighing the evidence from Complaint 3 and the new evidence listed above against the word of the respondent.
13. 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.
14. 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.
15. 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. Therefore, the Posts are attributable to the Respondent, and the analysis of the rest of the complaint must proceed.

8.3 a ii: Did the respondent defame a UVSS member?

16. 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.

17. 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.
18. To find that a UVSS member defamed a person, each element of the offence must be met.
19. 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.
20. Two lines in the Posts are enough for the Office to conclude that false information is present:
 - a. “(A UVSS Member) shows...(they do not) have a shred of journalistic integrity.”
 - i. The UVSS members experience, position, and articles show the members journalistic integrity. With the evidence supplied, the article posted by the Martlet reports on their interview with the respondent without bias. The Martlet also follows detailed procedures to ensure any bias is omitted in their articles. This statement is false.
 - b. “A story how an Insider (UVSS Member) is helping a Friend (Candidate)”
 - i. The UVSS Member met the Candidate when they were covering a board meeting. They have not had any correspondence prior to the election. During the election, the UVSS Member interviewed the Candidate for 10 minutes. To classify them as friends is a false assertion.
21. 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.’
22. Discussion of whether the Posts had the potential to harm the UVSS members 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 – “(A UVSS Member) shows...(they do not) have a shred of journalistic integrity” is a clear, intentional attempt to induce negative feelings. No further analysis is necessary for the Office to conclude that the Posts are defamatory.
23. Therefore, the respondent violated EPM 8.3 a ii.

Sanctions

24. The consequences for the respondent's breach of 8.3.a ii is disqualification. 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.
25. The respondent must remove any posts about the UVSS member from the Second Account immediately.
26. Consequently, this is the respondents secondary disqualifiable offence, and in the event that Complaint 3 is appealed and candidacy is reinstated, this ruling would override that reinstatement, disqualifying the respondent (Hazam Nasir) from the 2021 Spring Electoral Event pending appeal of the ruling of Complaint 5.

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 candidate is held in abeyance.

Emma Hamill

Chief Electoral Officer