

TO: *AMS COUNCIL*

FROM: *ISABEL FERRERAS, ELECTIONS ADMINISTRATOR*

RE: *FINAL REPORT TO COUNCIL ON INVESTIGATION INTO
VOTER IRREGULARITIES*

DATE: *MARCH 15, 2010*

Introduction

1. As you know, the AMS has been investigating a voter irregularity which came to light after submission of the Elections Report to Council on February 10, 2010.
2. The Elections Committee obtained preliminary findings from its external forensic investigator which indicated that the voter irregularity in question had no effect on any of the AMS Executive positions.
3. We directed the investigator to continue with its investigation as there were certain other issues which came to light which warranted further attention.
4. The investigator has now completed its investigation; as a result I am now able to provide this final report which concludes that the voter irregularity had no material effect on the outcome of the final results for the AMS Executive positions.

Background

5. As you know, on February 10, 2010, I submitted my Report to Council on the 2010 Elections Results (in accordance with Section IX, Article 7, Section 10 of the Code of Procedure).
6. On February 17, 2010, I was contacted by Mark Latham, the sponsor of the voter funded media contest, concerning an irregularity in the pattern of the votes. Mark noted that, with respect to the voter funded media contest, there had been a significant number of votes occurring at the end of the election and that numerous votes had been cast from the same IP address. I reviewed the elections results and confirmed that a significant number of votes had been cast from the same IP address immediately before the ending of the election.
7. On February 19, 2010 I notified the AMS' General Manager, Ross Horton, as well as Chris Eaton, UBC's Academic Governance Officer & Triennial Returning Officer, given that two sets of UBC positions had been filled as a result of this electoral process.
8. The AMS retained FDR Forensic Data Recovery Inc. to provide forensic preservation and analysis of the AMS' 2010 Elections Results. FDR is a recognized industry leader in computer forensics, data preservation and data recovery with a reputation for prompt and responsive service.

9. On February 25, 2010, Mr. Horton advised the Executive that AMS was investigating a voter irregularity. To avoid any potential conflict of interest of elected Executive members, it was agreed that Mr. Horton would continue to be responsible for directing the FDR investigation, in consultation with the Elections Committee and AMS' legal counsel.
10. On February 26, 2010, the AMS released a communication to its membership indicating that AMS was investigating this voting irregularity.
11. On March 3, 2010, the Elections Committee released its preliminary report and delivered it to Council Meeting on the same date.

Role of Elections Committee and Elections Administrator

12. In keeping with my role as Elections Administrator, I have been involved in the investigation throughout.
13. The Code states that it is my responsibility to provide a report to Council on the election, including the results.
14. However, in this case, where the previous report that I submitted may have been wrong on the basis of a fraud or error not earlier brought to my attention, I am advised by legal counsel that it is my obligation to consider the information concerning the voter irregularity and to take all reasonable steps to provide a revised report to Council as soon as possible.
15. I also understand from AMS' legal counsel that the law does not require a standard of perfection. In other words, the Elections Committee is not obliged to guarantee that the elections results are perfect. Rather, an election result may only be rejected where a substantial irregularity is shown to have occurred and there is a determinable and material effect on the elections results.
16. The Elections Committee has applied these legal tests to analyze the investigation results and to make conclusions in its Final Report about the effect of the voter irregularity.

FDR Results

17. The results of the forensic analysis support the conclusion that the voter irregularity did not affect the outcome of the AMS Executive positions.
18. In its preliminary analysis, FDR determined the following:
 - (a) There is a security vulnerability in the voting system such that an eligible student could submit an unlimited number of votes on behalf of any student number including ineligible student numbers.

- (b) 731 votes were cast from one IP address between 12:44:33 and 16:00:00 (the “Suspect Voters”)
 - (c) 18 of the Suspect Voters contain ineligible student numbers which is indicative of fraudulent activity.
 - (d) In the University Board of Governors ballot section there are 4 hidden fields which are not displayed: board1, board2, board4 and board8. Within the Suspect Votes, there were 58 votes cast for board2 and 75 votes for board8. This data anomaly is not possible through the normal voting process.
19. FDR therefore concluded that the 731 Suspect Voters are not legitimate.
20. As indicated in our preliminary report, the Elections Committee directed FDR to continue to investigate whether there were other voter irregularities including:
- (a) analyzing material Clump Voting coming from the same IP addresses; and
 - (b) whether votes saved, but not submitted, were over-written by the 731 Suspect Voters.
21. FDR has provided further information in its final analysis, which has permitted the Elections Committee to conclude as follows:
- (a) there is no other material Clump Voting; only the 731 Suspect Voters are likely non-legitimate votes;
 - (b) of the 731 Suspect Voters, there is a low probability that a significant number of these non-legitimate votes over-wrote legitimate votes, such that there was a material effect on the result of the election.
22. In view of the findings of FDR in its final analysis, and following an examination by the Elections Committee of the effect of the known irregular votes, the Elections Committee has concluded as follows:
- (a) the voting irregularity did not have a material effect on the results of the 2010 elections for the AMS Executive positions;
 - (b) the voting irregularity had a material effect on the voter funded media contest as funds were distributed materially differently as a result of the irregular votes;
 - (c) the voting irregularity may have affected the outcome of the one referendum question originally held to be an affirmative vote.
23. The AMS still has no information (from FDR or any other source) indicating any connection between any persons who ran for election or participated in the voter funded media contest and the Suspect Voters.

24. The only Non-AMS race in which voter irregularity appeared to have a material effect was the UBC Senate race. As mentioned in our preliminary report, the AMS has shared the results of its investigation with UBC.
25. As a result of the conclusions of the Elections Committee stated above: (a) the AMS Election results will stand, (b) a recommendation will be made to Council to top-up funding to participants in the Voter Media Contest to nullify the prejudicial effect of voter irregularity on the voter funded media contest and (c) Council will be informed that the outcome of the vote on the referendum question originally held to have passed may no longer definitively be determined to have passed.

Recommendations Regarding the Election Process

25. The Elections Committee has asked FDR to provide recommendations and a cost-estimate which will address the security “gaps” in the electronic balloting system and how to fix those gaps.
26. The Elections Committee also suggests that Council review the electronic balloting system (with legal counsel if necessary) to address the privacy concerns raised in the March 3rd Council meeting at which the preliminary report of the Elections Committee was presented.