November 13, 2018

In re: **Presidential Appointments**

**CHIEF JUSTICE BROITMAN** writing for the Council, joined by Associate Justice KIRLEY, Associate Justice TAM, Associate Justice CAI, and Associate Justice HERNDON. Joined in thought by Alternate Justice MUELLER, Alternate Justice WANG, and Alternate Justice WILLIAMS.

On November 3, 2018, a Student Union Treasurer submitted an interpretation request regarding the constitutionality of certain presidential appointments. Because the case involved an officer of Student Union, the Council decided to take the case under its jurisdiction provided in Constitution, Article VI, §1(a)(5).

Constitutional Council was asked to evaluate the President’s actions in accordance with the Constitution and Statutes relating to appointment powers, specifically the appointment of an Executive Advisor for Sustainability (EAS) and a Student Technology Advisory Committee (STAC) representative. According to Constitution Article IV, §2(e):

> The President of the Student Union shall:... (e) Appoint such executive personnel as they deem necessary for the proper execution of their duties with consent of the Senate and Treasury and have the power to remove such persons from their positions, with the consent of the Senate and Treasury. They must appoint, before the end of the semester during which they are elected, an Executive Advisor for Sustainability and a Diversity Affairs Council Chair. The President is not limited to appointing only the aforementioned executive personnel.

Additionally, there is further clarification in Statutes Article I, §1(c) and (d):

> The President of the Student Union Shall:… (c) Appoint a representative to the Student Technology Advisory Committee with the advice of Senate and Treasury. (d) Appoint an Executive Advisor for Sustainability with the advice and consent of Senate and Treasury.

It seems clear that the President must make these appointments. However, the procedures for appointment differ. The EAS must be appointed by the President and then confirmed by majority vote in Senate and Treasury. The STAC representative must be appointed by the President with advice from Senate and Treasury.

After discussing the matter with the President and other Student Union personnel, it was confirmed that a STAC representative was properly appointed in September 2018.

The situation concerning the EAS position is more complicated. During the Spring 2018 semester, there was a functional restructuring of sustainability groups within the Student Union.

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1 The Justices of the Constitutional Council shall:... Decide all cases in which an officer of the Legislative or the Executive branches of the Student Union is involved, and cases between Student Union registered groups and/or councils.
Executive branch to create the Student Environmental Council (SEC). This was accomplished by a vote within Executive Council 51, with Executive 52 present. Effectively, the EAS position was altered and incorporated into the current Student Environmental Council President position. To the Council’s knowledge, the SEC President was appointed in congruence with the newly formed SEC constitution, but without regard to Student Union Constitution. At the time of writing this opinion, the SEC President’s appointment is not satisfactory for fulfilling the EAS appointment procedure in the Constitution.

Due to circumstances unknown to this Council, no changes were implemented into the Constitution, the supreme governing document for all of Student Union, when the SEC was formed. Constitutional Council exists to interpret and uphold the Student Union Constitution and Statutes as written. We have faithfully done our job thus far. It is emphatically the role of all officers to uphold the Constitution and operate invariably with all its provisions. If officers or constituents wish to make changes to the governing documents, they may follow the procedures set out within the Constitution (Article X) and Statutes (Article X) respectively.

More alarmingly, a new challenge was presented to the Council in this case. The treasurer submitting the interpretation request, as a member of Executive 51, surely had inside knowledge regarding the EAS position and SEC formation. By failing to provide all relevant information he knew to the Council, even after further inquiry, this officer has interfered with the Council’s core operations. In doing due diligence, the Council works to collect all evidence pertinent to the case and undergo thoughtful deliberation to help maintain an appropriate balance of power within Student Union and serve as a means of accountability. The Council strongly frowns upon deception.

In sum, the Council finds that an EAS must be properly appointed in a manner not inconsistent with this opinion and the Constitution.

There was no dissent.

2 The newly appointed SEC President did not appear in front of Senate and Treasury.