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EGC DECISION

February 10, 2023

After conducting a diligent and thorough review, the Elections Governance Committee (EGC) has concluded that Nika Bajaj has violated Section 3.3.4 of the EGC Violations Policy. This violation occurred when she posted campaign material determined by the EGC to contain materials identical or similar to that of another candidate. Consequently, the EGC has sanctioned Nika Bajaj with an order to change behaviour, requiring the removal (i.e., permanent archiving) or deletion of the campaign material in question. The full report is attached.

For further inquiries, please contact Daivik Shelat at dro@westernusc.ca.

Candidate(s) under review: Nika Bajaj
Deliberations: February 8, 2023

Present: CRO, DRO, [REDACTED]

1. Allegation(s)
 - a. Nika Bajaj was alleged to have violated Section 3.3.4 of the EGC Violations Policy when she posted campaign material containing similar materials to that of another candidate in the 2023 Spring Elections.
 - b. The campaign material in question is a Cameo video posted on February 7, 2023, to Bajaj's campaign Instagram account, containing an endorsement from actor Phill Lewis.
 - c. This video was alleged to be similar to another video posted on February 2, 2023, by an opposing candidate on their campaign Instagram account. The video posted by the opposing candidate was a Cameo video containing an endorsement from actor Phill Lewis.
2. Violation Under By-Law #2/EGC Violations Policy
 - a. EGC Violations Policy Section 3.3.4.
 - b. **3.3.4.** "All campaign materials must not contain materials identical or similar to those of other candidates whether in this election or those in the past 4 years."
3. Investigative Action Taken by the EGC
 - a. Committee members examined the evidence presented to determine the validity of the allegation. Exhibit A shows Bajaj's video, and Exhibit B shows the opposing candidate's video.
 - b. Bajaj was invited to a hearing on February 8, 2023, at 9:00 pm (21:00). Bajaj attended the hearing and presented her side of the case. At Bajaj's request, the hearing was also attended by two of her campaign volunteers.
 - c. Investigators asked Bajaj if she was aware of the other candidate's video and if the other candidate's use of a Cameo endorsement video from Phill Lewis played a role in her decision. Bajaj answered in the affirmative to both questions. She also stated that she saw her Cameo video as a parody or building off the fame the other candidate's video had gained.
 - d. In her statement, Bajaj argued two key points - first, that Section 3.3.4 of the EGC Violations Policy was implemented to prevent candidates from appropriating the intellectual property (e.g., campaign platforms) of other candidates.
 - e. Second, Bajaj's team argued that by finding this act to be a violation, the EGC would be interpreting Section 3.3.4 too broadly and that such an interpretation would require the EGC to find that many other forms of campaign materials were also in violation of the policy.
4. The EGC's Findings
 - a. In reaching its decision, the EGC reviewed the Cameo endorsement videos posted by both campaigns, and considered in detail the argument and submissions made by the Bajaj campaign.

- b. With respect to Bajaj’s assertion that the purpose of Section 3.3.4 is to be restricted to intellectual property (e.g., campaign platform material), the EGC was presented with no evidence of this limitation. Platforms are defined in the Violations Policy as “the basic tenets and goals a candidate is basing their campaign upon.” However, Bylaw #2 defines “campaign materials” as “any item, giveaway, design, social media post or other electronic communication, sound, symbol, or mark that is created or copied in any form in order to and/or likely to influence at least one voter to cast a ballot in favour or in opposition of a candidate.” Section 3.3.4 was drafted to refer to “campaign materials” and not “platforms”, and as such the EGC cannot accept the Bajaj campaign’s submissions on this limitation.
- c. The EGC accepts that Bajaj’s Cameo video constitutes “campaign material.” As such, the remaining question is whether the video contains “material identical or similar to those of other candidates whether in this election or those in the past 4 years.” In determining this issue, the EGC considered the extent of the similarity between the two Cameo videos and the specific elements of commonality. In the case at hand, both videos featured an endorsement of the candidate by the same actor, and utilized the actor’s well-known catchphrase without other significant or notable changes.
- d. With respect to the Bajaj campaign’s submissions that the video amounts to a parody, the EGC finds that the Bajaj campaign video lacks the original or creative content required to support such a finding in this case. To be clear, the EGC is not making a finding as to whether future campaign material designed as a parody of the material of another candidate would be prohibited by Section 3.3.4.
- e. Accordingly, the EGC has determined that the Bajaj campaign video constitutes campaign material that contains materials identical or similar to those of another candidate in this election and, therefore, constitutes a violation of EGC Violations Policy Section 3.3.4.

5. Decision

- a. In Committee quorum, the EGC has found that Nika Bajaj was/is in violation of EGC Violations Policy Section 3.3.4.
- b. As such, the EGC issues an order for Nika Bajaj to change behaviour and requires her to remove (i.e., permanently archive) or delete the Cameo video containing an endorsement from actor Phill Lewis.

Approved for release:

Mason Brown
 Chief Returning Officer, USC
 Elections Governance Committee

Daivik Shelat

Deputy Returning Officer, USC
Elections Governance Committee

Exhibit A - Nika Bajaj's Video (Posted Feb 7, 2023):

https://drive.google.com/file/d/1tY3YR7pD6gdHGdFvp_3YB0WsMOQknvGi/view?usp=share_link

Exhibit B - Opposing Candidate's Video (Posted Feb 2, 2023):

https://drive.google.com/file/d/1vh72sj8Ah7a69fPJ1IfiLu2a8gDvLPSQ/view?usp=share_link