

DISPUTE RESOLUTION PANEL

In the Matter of the General Dispute Resolution Process ("the GDRP")

And in the Matter of a Notice of Dispute dated January 26, 2022

BETWEEN:

Chestermere Strathmore UCP
Constituency Association
("CA Claimant")

-and-

The Board of Directors of Chestermere Strathmore UCP
Constituency Association as constituted on January 7, 2022
("the Claimant Board")

-and-

The United Conservative
Association and the United
Conservative Party ("Party
Respondent")

-and-

Executive Director of the
United Conservative Party
("Executive Director
Respondent")

-and-

The Board of Directors of
Chestermere Strathmore UCP
Constituency Association
purportedly elected at the
January 8, 2022 AGM
("Respondent Board")

Heard via Zoom Video Conference March 25, 2022

BEFORE:

Thomas S. Kent	Panel Chair
Shelley Tupper	Panel Member
Ryan B. Armstrong	Panel Member

REASONS FOR DECISION AND ORDER

(1) This matter came before us on March 25, 2022 in a hearing conducted via Zoom video conferencing. Brendan Miller appeared for the CA Claimant and the Claimant Board (hereinafter collectively, "the Claimants"). Steven Dollansky appeared for the Party Respondent and Executive Director Respondent (hereinafter collectively, "the Party"). Nick Boots, President of the Respondent Board, appeared for said board.

(2) The Panel and the parties had previously convened on February 8, 2022 after which the Panel issued a Memorandum of Meeting and Procedure with procedural deadlines for filing and for matters of interim relief. The Claimants, by way of letter dated February 22, 2022, outlined their position on interim issues requiring rulings. The Party replied by way of letter dated February 25, 2022. At the Hearing on March 7, 2022, for interim relief, the Claimants confirmed that no further disclosure was required from the Party, and that the remaining outstanding issue was that of compelling witnesses. The Panel issued its Memorandum of Hearing and Order on March 9, 2022.

(3) Throughout the proceedings, counsel have made it clear that attempts at resolution were being made and the Panel encouraged such discussions. On March 14, 2022, the parties, through Mr. Miller, advised the Chair that a compromise had been reached such that an order declaring that "the Annual General Meeting of January 8, 2022 of the Chestermere-Strathmore United Conservative Party Constituency Association and its results are set aside" should be made. The parties advised that ancillary relief would be sought at the hearing on March 25 and submitted competing versions of the balance of an order to be made.

(4) At the commencement of this hearing, the Panel was advised that the evidentiary record for this matter would be the submissions and accompanying documents made by the parties. No witnesses were to be called. No affidavits were submitted. The Panel is, therefore, able to discern facts, as needed, from said record to adjudicate the arguments for ancillary relief.

(5) The parties advised the panel that it served no one's purpose to discuss details of why the compromise was made or upon what basis. Certainly, the Panel agrees that it ought not go behind the advice that there is a settlement or an agreement. The Panel is cognizant, however, of the guiding principle set out in section 1.2 of the General Dispute Resolution Process ("GDRP") which states that, "the Process is a quasi-judicial process and as such the Process is subject to all the Rules of Natural Justice and must be fair, balanced, open and transparent".

(6) The Claimants seek, in suggested paragraphs two through four of a suggested order, relief that restores the Claimant Board to its position prior to the Annual General Meeting ("AGM") of the Strathmore-Chestermere Constituency Association ("the CA") held January 8, 2022.

(7) The Party seeks ancillary relief in a suggested order which sets a time frame within which the 2022 CA AGM will be held and the specifics of who will be the entitled voters thereat. It also seeks to restrict the list of candidates for the CA board to those eligible at the January 8 meeting.

(8) The Respondent Board took umbrage with the description of events leading to this hearing and the ancillary relief now being sought by the Claimants. It should be noted that the Respondent Board is an innocent victim in this chain of events. Mr. Boots has made it clear that members of the Respondent Board are volunteers who made sacrifices to attend the meeting, including the incurrence of costs and time. They feel impugned and worry that their reputations are somehow tarnished. The Panel recognizes this situation. No relief has ever been sought by the Respondent Board, however. At the outset of these proceedings, it chose not to file any response, counterclaim, or crossclaim as provided for in the GDRP Rules. At the February 8 scheduling meeting, Mr. Boots made it clear that the Respondent Board would follow the Party and rely upon it.

(9) In turning its attention to the two forms of orders sought, the Panel must look at the record before it to assist in interpreting and deciding the issues. It must also look at the claims and allegations in the Notice of Dispute and the Response. The Panel notes that the Claimants sought to overturn the January 8 events due to errors made with the voting lists and conduct of the AGM as a result. They state that the Party had refused to answer or explain the discrepancies raised. The Party refutes the allegations in its Response and provides copies of lists and explanations. In the Response, reference is made to the CA Rules and specifically rule 6.2, which states, "The Constituency Association Board shall fix the date for a General Meeting and provide notice to the Constituency Members of the time, place and business to be transacted of (sic) the General Meeting by email, telephone and by publication of a notice on the Party website, such notice to be not less than twenty-one (21) days" (emphasis added).

(10) The Panel reviewed the facts surrounding the issuance of the notice for the January 8 meeting and raised the issue of section 6.2 of the CA Rules with counsel and Mr. Boots in the run up to the March 7 hearing for interim relief. The Claimants and the Party submitted written submissions on this point. The Panel was then and remained concerned with whether the meeting was properly called leaving aside the allegations about lists and the responses thereto. This issue goes to the root of the ancillary relief sought by the Claimants and Party on March 25 regardless of the basis for the setting aside of the meeting as referred to above.

(11) It is the Panel's finding that the meeting was not properly called as section 6.2 of the CA Rules was not complied with. The proper interpretation of the notice period is, as guided by subsection 22(3) of the Interpretation Act, RSA 2000, C I-8, which reads as follows:

"If an enactment contains a reference to a number of days expressed to be clear days or to "at least" or "not less than" a number of days between 2 events, in calculating the number of days, the days on which the events happen shall be excluded".

(12) The record shows that notice was emailed on December 18, 2021 to members regarding the January 8, 2022 AGM (Exhibit B to Response).

(13) There can be little doubt that Kyle Braun, party employee, found it odd that another AGM was being held so soon after the CA held its 2021 AGM on October 23, 2021. What is not in the record is whether members were also notified by telephone and posting on the web site of the Party. It matters not, however, as notice on December 18 falls short as one does not count the 18th of December nor January 8 when counting the 21 days. The notice is deficient by one day. As well, as there is no dispute that many membership applications were not processed until January 4, any members that were processed after the notice went out apparently did not receive notice of the AGM on January 8.

(14) It is the Panel's finding that the January 8, 2022 AGM was *void ab initio* (a nullity from the beginning). This finding informs the Panel's decision as to fair and reasonable relief ancillary to the agreement to set aside the meeting and its results. No aspersions need be cast in any direction. It is most probable that the Claimant Board did not read the CA Rules carefully and Mr. Braun was placed in a tight situation to perform just in advance of the Christmas holidays and office closure. It is completely understandable that Mr. Braun would not have been in a hurry to process the paper membership applications delivered to him in late November when an AGM had just been held a month before. Obviously, whatever unfolded on January 8 cannot be held against the Respondent Board for reasons aforesaid.

(15) Thus, in relation to the ancillary relief sought, the Panel is mindful of the arguments made by counsel and Mr. Boots. The fair and reasonable result is to order as follows:

- a. on consent, it is ordered that the Annual General Meeting of January 8, 2022 of the Chestermere-Strathmore United Conservative Party Constituency Association and its results are hereby set aside;
- b. it is ordered that the Claimant Board shall be reinstated, and the President, Membership VP and Finance VP shall have the usual access to CIMs data and OFS portal, as the case may be. Further, the Party shall notify the CA's bank that the Claimant Board designates, likely the President and the Finance VP, shall have access and control over the bank account of the CA;
- c. it is ordered that the 2022 CA AGM shall be held on or before July 30, 2022 and the Claimant Board shall give at least five days' notice to the party office (by email to Mr. Braun, or any successor, and a copy to the Executive Director) of the dates upon which it would like to hold the 2022 AGM and the Party shall respond within five days of receiving said notice advising which date it will be;
- d. it is ordered that any current member as defined in the party bylaws, namely any member with a party membership number in accordance with bylaws 4.7.3 and 4.8, shall receive notice of the 2022 CA AGM in accordance with section 6.2 of the CA Rules; and
- e. it is ordered that candidates for the CA board to be elected at the 2022 CA AGM may be whomever is qualified under party bylaws and CA Rules.

(16) The foregoing Order takes into account the best interests of the CA and its membership, and the best interests of the party given the need to hold nominations and prepare for the 2023 general election.

(17) The Panel is grateful to counsel and Mr. Boots for their cooperation in partially resolving this dispute and in guiding the remaining arguments in a fair and respectful manner. All persons interested in this matter and its outcome should recall that the party is a young entity which necessarily will go through growing pains, which will include adjustments to rules and bylaws annually as inconsistencies and logistical issues or problems arise. In the meantime, the current bylaws and rules govern until modified by members at annual general meetings.

DATED the 28th day of March, 2022.

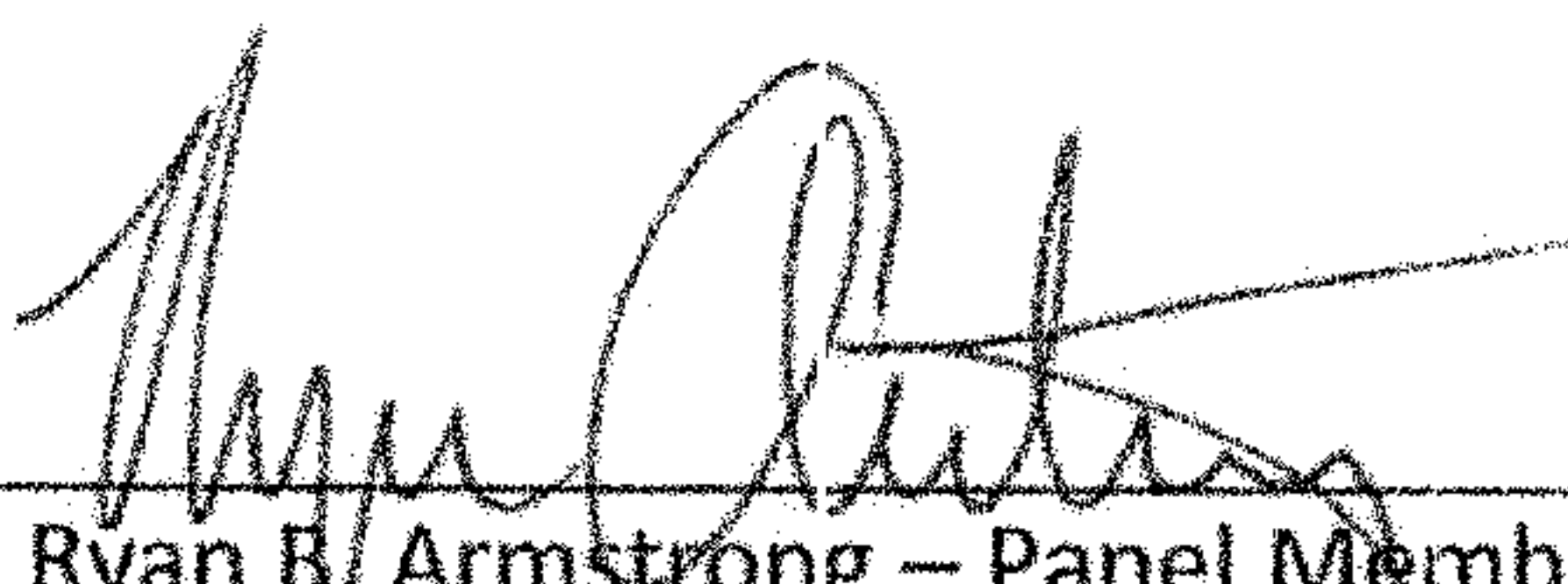
DISPUTE RESOLUTION PANEL

Per: 

Thomas S. Kent – Panel Chair

Per: "Shelley Tupper" per TSK

Shelley Tupper – Panel Member

Per: 

Ryan B. Armstrong – Panel Member