

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 and an Application for Enforcement of the Order of March 28, 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 August 3, 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 August 3, 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. Executive Director Dustin Van Vugt (“Van Vugt”) and CA President John Kittler (“Kittler”) attended and answered questions put forth by the parties and the Panel as needed.

(2) After this hearing, the Panel caucused and returned and gave an oral Order noting that short reasons would follow.

(3) The Party stated in Mr. Dollansky’s email of July 22, 2022:

“Further to the Panel’s decision of March 28, 2022 and as a result of the CA Board’s conduct, the Party seeks the following direction from the Board to be issued as soon as possible:

- 1) Directing that the current Board be prohibited from utilizing the CA funds for any purpose;
- 2) That an AGM be directed to be held on August 27, 2022 at a location within the constituency of Chestermere Strathmore to be determined by the Party;
- 3) That the AGM is to be administered by the Party; and
- 4) That notice of the AGM be provided to all current members of the Chestermere Strathmore Constituency Association on or before August 5, 2022.”

(4) The Claimants argued that the Order of March 28, 2022 had been fundamentally breached by the Party as it had withdrawn access to CIMS and that the breach was accepted by the Claimants who, in turn on July 20, 2022, passed a Resolution to hold the annual AGM on November 13, 2022.

(5) At the hearing, Van Vugt answered questions about the CIMS cut-off indicating that access to all party accounts with CIMS, excepting his, was suspended on the night of May 19, 2022 when the Premier unexpectedly announced that he would not stay on as Premier. He further stated that CIMS was restored to the Claimants on July 12, 2022 to his knowledge.

(6) Kittler was asked by the Panel why the Claimants needed CIMS to organize an AGM. The response was that, given the questioning about the membership lists used and produced for/at the January 8, 2022 AGM, it was important. Upon detailed questioning, Kittler acknowledged that he received the May 25, 2022 email to all Presidents notifying all about the CIMS cut-off. He acknowledged when asked that he should have contacted Mr. Braun, the author, upon receipt of same. He had earlier stated that the CA's VP Membership was regularly logging in to CIMS to monitor the membership status before the May 19, 2022 cut-off. Lastly, he acknowledged that he could request the membership list being used to give notice of the AGM from Mr. Braun when scheduling the AGM with Mr. Braun and the Party Respondent.

(7) Kittler was also asked about his knowledge of SendGrid, a software program the Party uses to send emails to members. He was unaware of it. SendGrid permits, amongst others, CAs to prepare emails which are then sent out to CA members.

(8) Mr. Miller submitted that the delays in raising issues and now in scheduling the AGM for November 13 are not long delays and should be viewed in the light of contractual delays, i.e. *de minimus*. However, Mr. Miller and Kittler confirmed that the Claimants would abide whatever order the Panel might make about the timing of the CA AGM. This should go without saying, but this Application arose.

(9) The Panel rejects the fundamental breach argument and the ensuing repudiation scenario. The Party Respondent was proactive by providing Mr. Braun's email of June 10, 2022, which can be seen as a friendly reminder of the impending deadlines arising from the March 28 Order. The Order required the Claimants to take the first step, which they did not. Nor did they complain about CIMS. This complaint arises only in Mr. Miller's email of June 29, 2022 in response to Mr. Braun's aforementioned email. This delay and the specious excuse of the CIMS cut-off did not exhibit good faith. CIMS was, and remains, irrelevant to any CA scheduling an AGM. Further, the Party Respondent is to provide membership information to CAs under the Bylaws. The Claimants never requested same from May 19 to June 29, 2022. It is likely that the CA received the monthly Excel spreadsheets which all Presidents or VP Memberships receive in any event.

(10) The Party Respondent wants to have this AGM held timely in accordance with our March 28, 2022 Order as much as is possible and practical. The Party is administering a leadership contest and CA nominations as best it can with its resources. The arguments about farmers seeding etc. are not founded in reality. The August date suggested is practical and reasonable.

(11) The Party Respondent sought and made submissions on a freezing of the CA bank account. After some submissions and questioning, the Party Respondent withdrew this head of relief sought.

(12) At the end of this hearing, the Panel caucused and returned and gave the following Order:

- 1) that an AGM for the Chestermere Strathmore CA be held on August 27, 2022 at a location within the constituency of Chestermere Strathmore to be determined by the Party;
- 2) that the AGM is to be administered by the Party, with the CA to bear no more than \$1,500.00 for costs of the AGM, the Party Respondent to bear any excess; and
- 3) that notice of the AGM be provided to all current members of the Chestermere Strathmore Constituency Association on or before August 5, 2022 and that a copy of the membership list used for these purposes be delivered to the CA no later than 5 pm August 8, 2022.

DATED the 4th day of August, 2022.

DISPUTE RESOLUTION PANEL

Per: 

Thomas S. Kent – Panel Chair

Per: "Shelley Tupper" per TSK

Shelley Tupper – Panel Member

Per: "Ryan Armstrong" per TSK

Ryan B. Armstrong – Panel Member