

MANIFEST OF DEFENCE

Claim # 2006 – SAC – 04

Presented on the behalf of the

Student Arbitration Committee

Of the Student Federation of the University of Ottawa

Defence Party:

Laura Evelyn Avalos Mendez

Betsabe Elena Chaires Wences

Carolina Mendoza

Alaric Moubouyi

Claiming Party:

Pam Diane Hrick, President of the PSSA

and

“the PSSA”

Saturday, March 4th 2006, 9:30 am

Outline

I. Presentation of the Six Accusations	Page 2
II. Refutation of Accusations	Page 3
i. Refutation of Accusations # 1, # 2, and # 3	Page 3
ii. Refutation of Accusations # 2 and # 4	Page 4
iii. Refutation of Accusation # 5	Page 5
iv. Refutation of Accusation # 6	Page 6
III. Claim for Referendum # 2006–SAC-_____	Page 9
IV. Appendix: Supporting Documents of the Defence	Page
12	
<u>Document 1</u> : “Minutes of PSSA executive meeting of February 16 th 2006”	Page
12	
<u>Document 2</u> : “Copy of List of Signatures supporting the Referendum Question of February 16 th and February 22 nd of 2006”	Page
13	
<u>Document 3</u> : “Copy of Pam Hrick’s e-mail sent to Laura Avalos, concerning the phone number she gave to us”	Page 14
<u>Document 4</u> : Copy of the “AÉÉP Référendum / PSSA Referendum” e-mail	Page
15	
<u>Document 5</u> : PSSA Constitution “Article 9: Constitutional Amendments”	Page
16	
<u>Document 6</u> : “Copy of the Referendum movement Website”	Page 17
<u>Document 7</u> : “Copy of the Referendum movement Poster”	Page 18
<u>Document 8</u> : Supporting <i>proof</i> of the claimant party – <i>a.</i> two copies of the Website dated on February 22 nd and February 23 rd ; <i>b.</i> one copy of our Support List; <i>c.</i> and one copy of the “PSSA Referendum” Campaign e-mail sent to all students of the faculty on February 22 nd	Page 19
<u>Document 9</u> : Definition of words “tacitly”	Page 20
<u>Document 10</u> : Confirmation Letter from a volunteer of the Referendum movement and IDM student, Alexandre Carr,	Page
21	

I. Presentation of the Six Accusations

Accusation # 1

“The Petitioner has violated Article 9.3 of the PSSA Constitution requiring referendum questions to be verified and approved by the PSSA Executive before an election. The Petitioner has unjustifiably launched a referendum campaign without verification or approval by the PSSA Executive. The Petitioner submitted her request for a referendum one day before the university’s reading week, allowing the Executive no chance to diligently review the question.”

Accusation # 2

“The Petitioner has violated Article 7.3.1 of the PSSA Constitution by usurping the role of the Elections Convenor and by unilaterally determining the date, time and place of an election for an unapproved referendum question. The Petitioner has also unilaterally restricted the voting population of the PSSA, by disenfranchising half of the membership (Political Science and Public Administration students) at her own will, with no negotiation with the Elections Convenor”.

Accusation # 3

“The Petitioner has violated Article 7.3.1 of the PSSA Constitution by announcing and publicizing, by way of e-mail and a website, false dates for an election that has yet to be approved”.

Accusation # 4

“The Petitioner has violated the spirit of Article 7.10 of the PSSA Constitution which prohibits the use of PSSA resources in an electoral campaign. Instead, the Petitioner has abused her non-partisan role as an employee of the Faculty of Social Sciences by using the Faculty Student Distribution List to release an unabashedly partisan e-mail to several thousand students of the faculty”.

Accusation # 5

“The Petitioner has also violated the spirit of Article 7.10 of the PSSA Constitution, by transforming the Office of the Faculty of Social Sciences into the unofficial headquarters of her campaign, soliciting support through a petition available at the front counter of the Office”.

Accusation # 6

“The Petitioner has violated Article 7.9 of the PSSA Constitution by publishing false accusations that are injurious to the personal character of the PSSA in the form of an unapproved campaign poster entitled “No Taxation without Proper Representation”. The Petitioner tacitly suggests that the PSSA, including students registered in the International Development and Globalization (IDG) and International Studies and Modern Languages (ISML) programmes are a band of liars, cheaters and thieves”.

II. Refutation of Accusations

i. Refutation of Accusations # 1, # 2, and # 3

Accusation # 1

“The Petitioner has violated Article 9.3 of the PSSA Constitution requiring referendum questions to be verified and approved by the PSSA Executive before an election. The Petitioner has unjustifiably launched a referendum campaign without verification or approval by the PSSA Executive. The Petitioner submitted her request for a referendum one day before the university’s reading week, allowing the Executive no chance to diligently review the question.”

Citation de l’article 9.3. en question :

9.3. – « Any member of the PSSA who wishes to propose a constitutional amendment by referendum must gain the signatures and student numbers of 25 students supporting the proposed amendment. These signatures must be submitted to the PSSA Executive for verification and approval ».

9.3.1 – « Amendments proposed by way of a referendum must be announced and advertised at least two weeks prior to the date of the referendum”.

- Our movement respected the PSSA Constitution’s Articles 9.3 and 9.3.1 in proposing the Referendum, and a Referendum Question, 3 weeks in advance (1 more week than required by PSSA constitution) on Thursday, February 16th 2006 during the PSSA's executive meeting in which we submitted to the PSSA a list of 25 signatures supporting the Referendum. Please refer to **Document 1** : “Minutes of PSSA executive meeting of February 16th 2006” and **Document 2** : “Copy of List of Signatures supporting the Referendum Question of February 16th and February 22nd of 2006” attached in the *Appendix*.

- Afterwards, on Wednesday February 22nd Alaric Moubouyi handed in another 87 signatures to Pam Hrick, who he met in Tabaret Building.

- The proposed Referendum Question was the following one:

“Do you accept to modify the constitution of the PSSA (Political Studies Student Association) in order for students in International Development and Globalization and in International Studies and Modern Languages to create their own autonomous association () and recognized by the Student Federation of the University of Ottawa (SFUO)?”

Accusation # 2

“The Petitioner has violated Article 7.3.1 of the PSSA Constitution by usurping the role of the Elections Convenor and by unilaterally determining the date, time and place of an election for an unapproved referendum question. The Petitioner has also unilaterally restricted the voting population of the PSSA, by disenfranchising half of the membership (Political Science and Public Administration students) at her own will, with no negotiation with the Elections Convenor”.

Accusation # 3

“The Petitioner has violated Article 7.3.1 of the PSSA Constitution by announcing and publicizing, by way of e-mail and a website, false dates for an election that has yet to be approved”.

Citation de l'article 7.3.1. en question :

7.3.1 – “announcing and publicizing the elections, as well as all events and deadlines associated with the elections”;

- On the above mentioned February 16th meeting, we had an *oral approval* by the PSSA executive at that meeting that they accepted our request for a referendum and the dates of 7, 8 & 9th of March 2006 (Also mentioned in Document 1 of the appendix). The President of the PSSA even gave us her personal home phone number in order of arranging referendum logistics with Alaric Moubouyi, the representative of our committee for election logistics. As this moment, we understood that the campaign had officially started. Please refer to **Document # 3: “Copy of Pam Hrick’s e-mail sent to Laura Avalos, concerning the phone number she gave to us”**. In which Pam Hrick clearly states that on February 21st she already –knew- and referred to our movement as the Referendum:

“that I

> didn't give you my home phone number with the expectation of receiving

> calls from other people regarding the referendum”

- After the February 16th meeting with PSSA and their oral approval, the President of the PSSA told us 5 days later (on Tuesday, February 21, 2006) that the PSSA’s executive had to take a decision before acceptance our Referendum Request and that “it could take up to 5 mores days before they could meet in order to take a decision”. We therefore question the PSSA Exec’s good will to keep up their February 16th agreement, as well as their Constitution, because, on the one hand: they say that they did not have time to meet and make a decision for accepting the referendum, despite the fact that we got their oral agreement, and, on the other hand: they did have time to send our request to the Student Arbitration Committee.

ii. Refutation of Accusations # 2 and # 4

Accusation # 4

“The Petitioner has violated the spirit of Article 7.10 of the PSSA Constitution which prohibits the use of PSSA resources in an electoral campaign. Instead, the Petitioner has abused her non-partisan role as an employee of the Faculty of Social Sciences by using the Faculty Student Distribution List to release an unabashedly partisan e-mail to several thousand students of the faculty”.

- We have difficulties understanding the consistency of Accusation # 4 because, on the one hand: the demanders recall Article 7.10 which prohibits of “the use of PSSA resources in an electoral campaign”, but, on the other hand, their reasoning follows that Laura Avalos “abused her non-partisan role as an employee of the Faculty of Social Sciences”

Therefore, the main question is: Why should the administration of a university’s faculty be part of the “PSSA resources”?

- Concerning the “AÉÉP Référendum / PSSA Referendum” e-mail (Document # 4) that was sent to all students of the Faculty of Social Sciences, it was sent to the students through the University of Ottawa’s *Student Distribution List* that always requires to be approved beforehand by Nathalie Saumure, Communication officer of the Faculty of Social Sciences. It is Nathalie Saumure who sent this e-mail. Moreover, it was the Dean of the Faculty of Social Sciences, François Houle, who approved the e-mail.

- In addition, concerning Accusation # 2, the title and content of the herein mentioned e-mail “AÉÉP Référendum / PSSA Referendum”, as well as our faith in the Referendum approval by PSSA (regarding our February 16th meeting) speaks for itself of our will to abide with all points of PSSA’s “Article 9: Constitutional Amendments” of their Constitution. There is no evidence that we tried to exclude all PSSA student population from the Referendum of the 7th, 8th and 9th of march. Please refer to Document # 5: PSSA Constitution “Article 9: Constitutional Amendments”.

- As a clarification, while being an employee of the Faculty of Social Sciences, Laura Avalos is as well a student at the undergraduate level that gives her all the rights entitled to *Individual Members* of the SFUO. This accusation is ungrounded and biased for the following reasoning: Being an employee, as well as a student, of the university does not necessarily imply that a student should renounce to his or her rights to participate in student activities. If this would be the case, then all working students on Campus would either have to renounce to their right to express their opinions as students or fall under the PSSA judgment as "blatant abuse of non-partisan position".

iii. Refutation of Accusation # 5

Accusation # 5

“The Petitioner has also violated the spirit of Article 7.10 of the PSSA Constitution, by transforming the Office of the Faculty of Social Sciences into the unofficial headquarters of her campaign, soliciting support through a petition available at the front counter of the Office”.

- On our Referendum movement and campaign Website, we recognize that we had originally put the address “TBT377” for our initial idea to get students to sign the Referendum Support list in order to make logistics easier. Nevertheless, and firstly, this address “TBT377” does not exist; the Office of the Faculty of Social Sciences is actually TBT 370. Secondly, we finally did not use the Faculty’s office as a headquarters for two reasons; 1. In order to avoid confusion between students and the administration and 2. because we respected Cecile Coderre’s, Vice-Dean academic and Secretary of the faculty, decision in not using the office for this purpose. Moreover, the “TBT377” announcement on the website was deleted the same day the e-mail was sent to all the students of the faculty, on Wednesday, February 22nd 2006. For proof on this point please refer to Document 6 and Document 8 of the Appendix.

- Furthermore, we remind the Student’s Arbitration Committee that in both cases -the petition for signatures at the wrong place “TBT377” and the case of being a working student on Campus- are issues that do not pertain to the jurisdiction of PSSA. We have then again, difficulties to understand their objectivity, their comprehension of their limits as a Federated Body, and the respect they have, as leading students, for others.

iv. Refutation of Accusation # 6

Accusation # 6

“The Petitioner has violated Article 7.9 of the PSSA Constitution by publishing false accusations that are injurious to the personal character of the PSSA in the form of an unapproved campaign poster entitled “No Taxation without Proper Representation”. The Petitioner tacitly suggests that the PSSA, including students registered in the International Development and Globalization (IDG) and International Studies and Modern Languages (ISML) programmes are a band of liars, cheaters and thieves”.

Citation de l’article 7.9. en question :

7.9 “- A penalty, up to and including disqualification from the elections, will be attributed to any candidate who makes or publishes any false statement in relation to the personal character or conduct of a candidate. A similar penalty will be

attributed in the event that a recognized member of a candidate's campaign makes such a statement".

We would like to discuss all aspects of Accusation # 6 in four steps:

First, the "No Taxation without Proper Representation" content of the Referendum Campaign poster:

- The slogan "No Taxation without Proper Representation" stands for our point of view that the PSSA does neither appropriately, or effectively, represents students in *International Development and Globalization* (IDG), and *International Studies and Modern Languages* (ISML). Objectively, we do not consider that a criticism on the *appropriateness* and the *effectiveness* of a Federated Body constitutes an injurious statement. Furthermore, the free expression of public opinion and critical approaches to the *status quo* of an institution is a necessary thing towards a positive change and, therefore, improve society as whole. Please refer to Document # 6: "Copy of the Referendum movement Website" and Document 8.

Second, the possibility of the existence of "false accusations that are injurious" through a *tacit suggestion* when the demander state that the "petitioner[, we,] tacitly suggests that the PSSA... are a band of liars, cheaters and thieves".

- According to the *Oxford English Dictionary Online* "*tacitly*" means: a. "Without speaking; silently; quietly" and "Without stating or expressing it; by implication" (Document 9 in Appendix) Therefore, this accusation is as well ungrounded since it is not possible to say a *suggestion* "Without speaking; silently; quietly"; It is ungrounded to blame us for injurious statements of something that the demanders themselves state we did not *state* nor *speak*. An accusation cannot be grounded neither on subjective perceptions, nor on non-concrete statements.

Third, "Personal Character of PSSA" in contrast with Article 7.9's "false statement in relation to the personal character or conduct of a candidate"

- PSSA is a Federated Body not any kind of "personal character" nor a nor a *de facto* member of the SFUO. Since, according to By-Law 2.1 of the Constitution of the SFUO, "there are two types of members of the Federation: voting members and individual members" (By-Law 2.1). PSSA then has one voting member representing them in the Federation but, but this must not be confused with any kind of "personal character", nor *individual membership*. We do not believe that PSSA has *individually* or *personally* injured by neither any of our statements nor any *tacit non-statement*.

- In **By-Law 2.2.5**. of the SFUO Constitution, it is stated:

“Any person ... whose conduct may cause prejudice to the Federation, may be suspended or excluded from the Federation following a request presented to the Student Arbitration Committee pursuant to By-law 8.”

- By-Law 2.2.5. explicitly states that it is necessary that there be a *prejudice* and that this *prejudice* be done against the Federation, whose members are only “individual members” and “voting members”. On the first place PSSA, under By-Law 2, is not a *de facto* member of the SFUO (only the PSSA’s Voting member); secondly they are not any kind of personal entity/character; and thirdly there has never been such an explicit, concrete, prejudice against the PSSA. For these three reasons, they do not have groundings to bring a complaint to the SAC.

- There is no evidence that any member of this committee has caused harm to such “personal character” nor to any of the PSSA’s executive and students members. On the contrary, Pamela Hrick intentionally wanted to cause harm to another member of the SFUO, Laura Avalos, by presenting herself to the counter of the Secretariat of the Faculty of Social Science asking to speak to the supervisor in order to file a complaint on an employee working in the office. A couple of minutes later, Cécile Coderre, Laura Avalos supervisor confirmed that the request of Pamela Diane Hrick was regarding her. The request for a complaint was not filed.

Fourth, Ever since the October 2003, the “101 Week slogan” that has been winded for welcoming IDM, ISML, APA and PoliSci students is the following one:

101 WEEK: WE ARE POLI SCI!
WHAT DO WE DO? LIE.
WHAT DO WE DO? CHEAT.
WHAT DO WE DO? STEAL.

- 101 Week is a major event, in which representing Federated Bodies should promote a sense of community, identity, pride and integration of students in the programmes they represent. The fact that we have represented their Slogan in our poster does not constitute itself any kind of defamation or prejudice against the PSSA, which is not a personal entity neither; there is not explicit, textual, evidence for this.

III. Claim for Referendum # 2006–SAC-_____

Ottawa, le 1^{er} mars 2006

Objets : requêtes concernant le référendum à venir

À l'attention du Comité d'arbitrage étudiant
Membres du Comité,

En raison du dépôt du dossier de projet de création d'une association des étudiants en études internationales et langues modernes et développement international et mondialisation, nous nous référons à la structure compétente du Comité d'arbitrage étudiant pour faire valoir nos droits et préoccupations. À priori, il importerait de noter la spécificité de notre recours à un processus référendaire. Ainsi, nous, mouvement pour la création d'une nouvelle association, préconisons une scission au sein de l'organe sous la juridiction de laquelle nous (*étudiants en études internationales et langues modernes et développement international*) nous trouvons. En effet, en l'an 2003 les étudiants des programmes de EILM et DIM ont été inclus unilatéralement dans l'association des étudiants en science politique. Ils n'auront donc jamais participé à ce referendum dont l'issue, demeurant de mise, les aura affectés. C'est donc au regard de ce vice de forme que nous portons un regard critique sur l'histoire et avons l'intention de donner pour la première fois l'opportunité aux étudiants en études internationales et langues modernes et développement international de se prononcer démocratiquement en faveur ou non de la création de leur association. Soucieux de l'importance de cette association, les requêtes que nous portons au comité d'arbitrage ne consistent aucunement en des accusations mais plutôt en une remise en question de règles constitutionnelles de l'AEEP relatives à la question du referendum. Nous citons l'affectation de la présidente de l'AÉÉP à la fonction de chargé du referendum et l'implication des étudiants en science politique et administration publique au vote référendaire.

Dans l'attente d'une suite favorable à nos requêtes, nous prions d'agréer membres du comité d'arbitrage l'assurance de notre plus haute considération.

Le Mouvement pour la création des étudiants en EILM et DIM

Objet : requête relative au choix du chargé de référendum

À priori, les exigences constitutionnelles concernant la proposition d'un projet référendaire sont d'ores et déjà remplies par le mouvement. En effet, les documents nécessaires (*pétitions et question de référendum*) ont été soumis au bureau exécutif de l'association des étudiants en études politiques le 16 février 2006. Ces documents devant être étudiés en vue du déclenchement d'un référendum au plus tôt deux semaines après la remise des dits documents. Néanmoins, au regard de la nature de notre proposition référendaire, il s'avère que l'alinéa 9.3.2 de l'article 9 de la constitution de l'AÉEP stipulant : «*The President of the PSSA will act as referendum convenor, and will adhere to the relevant guidelines outlined in Article 7.*» pose problème. Le caractère problématique de cet alinéa s'explique notamment par le fait que le président ou la présidente de l'AÉEP se voit systématiquement attribué(e) le titre de chargé de référendum. En d'autres termes, cette personne est tenue d'occuper des fonctions administratives centrales, voir déterminantes, en période référendaire. En référence à l'**article 7** de la dite constitution, nous citons les fonctions de gérer toutes les questions relatives à la gestion du référendum (**alinéa 7.3.2**), déterminer de nouvelles règles spécifiques s'inscrivant dans le cadre du référendum (alinéa 7.3.3). De plus, l'**alinéa 7.2.1** indiquant : «*The Elections Convenor is independent from the Executive in the execution of her duties as elaborated in Article 7.3, but is accountable to the Executive for the proper management of the electoral process.*» apparaît en son fonds contradictoire. L'exécution des tâches conférées à la présidente de l'AÉEP relèvent de la gestion du processus référendaire sur laquelle l'exécutif de l'AÉEP a juridiction. L'indépendance de la fonction de chargé de référendum n'est donc point assurée. À la lumière des faits esquissés, l'affectation de l'actuelle présidente de l'AÉEP au poste ne garantit en aucun point l'impartialité de cette dernière. Or, le poste de chargé de référendum où arbitre référendaire requiert une certaine neutralité de conscience assurée par les fonctions de l'individu choisi. En ce sens, il apparaîtrait inconcevable que tout membre du bureau exécutif, dont la présidente l'AÉEP elle-même, soit affecté(e) à cette haute fonction. Il s'agirait d'une remise en question patente du principe d'impartialité. C'est donc par souci d'équité que nous réfutons cette affectation et proposons de fait à ce poste un étudiant membre d'une autre association étudiante.

Objet : projet d'un vote référendaire exclusif

La particularité du référendum s'explique par le fait qu'il s'agit d'un projet de création d'une nouvelle association. Ceci n'étant réalisable que par le retraitement des étudiants en EILM (*études internationales et langues modernes*) et DIM (*développement international et mondialisation*) de l'association à laquelle ils sont subordonnés. Ainsi, les compétences et les juridictions de cette hypothétique association ne se limiteraient qu'au nombre restreint d'étudiants suivant ces deux programmes internationaux. Dans cette optique, il apparaîtrait infondé de faire participer les étudiants en science politique et administration publique au vote tant ils ne seront pas concernés par les mandats et fonctions de l'association que nous avons l'intention de créer. Soit une association engagée à prioriser les intérêts, aussi divers soient-ils, des étudiants en EILM et DIM. Certes, une scission au sein de l'AÉÉP est susceptible d'affecter les étudiants en EILM et DIM. Mais elle ne remettrait pas en cause la capacité de l'AÉÉP à considérer pleinement les intérêts des étudiants en science politique et en administration publique. En outre, nous notons que le nombre d'étudiants en science politique et en administration publique est d'environ 1200 étudiants. Tandis que celui des étudiants en EILM et DIM est d'environ 950. Ce déséquilibre important pourrait s'avérer néfaste pour les étudiants en EILM et DIM si ceux-ci se prononçaient majoritairement en faveur de la création de la nouvelle association. Aussi, l'article **2.4** de la Fédération des étudiants de l'université d'Ottawa stipule : *«Les étudiants d'un département ou programme peuvent faire appel pour le statut d'association de membre ou de Corps fédéré.»* Ceci indique donc que les étudiants en EILM et DIM sont en droit de proposer la création de leur association. De même, l'alinéa **2.4.1** dit : souligne que : *«Si les étudiants du département ou programme en question désirent obtenir le statut d'association membre, ils peuvent le faire d'après les règlements de leur association de la Faculté respective.»* Bien que le contenu de cet alinéa ne nous oblige pas à nous baser sur les règles constitutionnelles de l'AÉÉP, nous avons fait le choix de nous référer à la constitution la dite association. Au regard de ces faits, en référence à l'article **2.4**, il serait légitime d'accorder aux étudiants en EILM et DIM l'exclusivité du vote référendaire et de la destinée la proposition de cette nouvelle association (association des étudiants en études internationales et développement international).

IV. Appendix: Supporting Documents of the Defence

Document 1: “Minutes of PSSA executive meeting of February 16th 2006”

Number of pages: _____

Document 2: “Copy of List of Signatures supporting the
Referendum Question of February 16th and February 22nd of
2006”

Number of pages: _____

Document 3: “Copy of Pam Hrick’s e-mail sent to Laura Avalos, concerning the phone number she gave to us”

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Document # 4: Copy of the “AÉÉP Référendum / PSSA Referendum” e-mail

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Document # 5: PSSA Constitution “Article 9: Constitutional Amendments”

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Document # 6: “Copy of the Referendum movement Website”

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Document # 7: “Copy of the Referendum movement Poster”

Number of pages: _____

Document # 8: Supporting *proof* of the claimant party

Number of pages: _____

Document # 9: Definition of words “tacitly”

Number of pages: _____

Document # 10: Supporting letter from Referendum movement
volunteer, Alexandre Carr

Number of pages: _____

PAGE

MANIFEST OF DEFENCE
NUMPAGES 22
Claim # 2006 – SAC – 04

Page PAGE 3 of