Candidacy of Saturnin Ndandala

Introduction:

In reviewing the submissions of expense forms, the elections office learned that the submission date of the expense form of Mr. Ndandala was after the deadline. The Chief Returning Officer (CRO) contacted the candidate to ensure that no mistake was made, and that there were no mitigating circumstances. The response being no, the CRO is forced to disqualify this candidate.

Ruling:

I must disqualify Saturnin Ndandala from the PGSS General Elections for failure to respect 9:11:6. This shall not affect the outcome of the election victors or the electoral deposit.

Complaint:

This ruling is the result of a CRO led regulation enforcement, and not a contestation.

Facts:

The CRO obtained the expense form of Mr. Ndandala during the week April 12th – 18th from the safe of PGSS. This form was submitted while the CRO was on vacation to a society staff member. The time stamp on the form confirmed that the PGSS received the form on April 10th at 5:00 pm. After speaking with the office staff member who received the form, the CRO learned that the time stamp may have been incorrect, but that the form was submitted directly to this staffer, and that this person was not in the office prior to 8:30 am. Furthermore, this employee mentioned that Thomson House was not open to members before 9:00 am that day. Corroborating the employee’s story, a PGSS executive who was present at the time of Mr. Ndandala’s submission can attest that the submission was made after 10 am.

In the interest of extending every permissible privilege to the candidate, the CRO contacted the candidate to confirm that an error was not made. The candidate confirmed having only submitted a paper copy and having done so in person on April 10th.

The CRO had previously explained the limitations of in person submission (office hours) and proposed emailing forms instead.

The deadline to submit an expense form is 8:30 am on April 10th. The SAM leaves no room for discretion on this topic. This is clearly explained in several forms, a calendar, the candidate guide, and in emails.

Analysis:

The situation at hand leaves no room for discretion. Article 9:11:6 reads:
If no submission of expenditures or declaration that spending did not exceed five (5) dollars is received by the PGSS within twenty-four (24) hours of the polls opening the candidate or referendum committee shall be required to withdraw from the election by the CRO. The referendum option committee electronic statement will be withdrawn.

While the article does not state such, the CRO would argue that a mitigating circumstance could permit this officer to exert leniency on this deadline, as he has for other deadlines. However, in the case at hand, no mitigating circumstances were presented to the CRO. Furthermore, the wording of 9:11:6 is extremely strict. Adding to this, the wording presented on the expense form is the following:

This form must be submitted within 24 hours of the opening of polls in paper or digital form. This form, without receipts, can be sent to Elections.pgss@mail.mcgill.ca. The paper form should be turned into a PGSS Administrator (3rd floor Thomson House). The original paper copy must be turned in. Please consult the PGSS website for the deadline. Failure to submit expense forms, with receipts, or a declaration of spending less than 5 dollars (including zero), will result in immediate disqualification.

Lastly, an email sent to all candidates the night before polls opening (Wednesday, April 8th) reminded candidates of this deadline and its severity:

The expense form can be submitted via email before the 10th at 8:30 am, with paper copies and receipts needing to be turned in before next Wednesday evening. Remember, the SAM specifies that failing to turn in this information will result in disqualification. If you are filling the form out on the computer, typing your name in the signature line is sufficient in lieu of a signature. If you have no expenses, or expenses less than 5 dollars that you do not wish to be reimbursed, you do not need to submit a form; however, you MUST inform me of having spent less than $5 (or nothing). This can simply consist of an email. Remember - The mac transport counts as $8!

Items in Question:

A) Does the deadline the consequence outlined in 9:11:6 apply here?

Decisions:

Does the deadline the consequence outlined in 9:11:6 apply here?

Yes. Given the facts outlined above, and the SAM article in question, there can be no doubt to the consequence of a late submission. A mitigating circumstance, which does not apply here, may oblige an exception to this consequence as to maintain fairness in the elections. Such is not the case.

Conclusion:

With respect for dissenting opinions, I conclude that Mr. Ndandala failed to submit his expense form by the time required by the SAM. As a result, he must be disqualified. The elections now concluded, with Mr. Ndandala failing to obtain a post, this will not affect the outcome of these elections. As this was a minor error made in good faith, the CRO will not impose the forfeiture of the electoral deposit.

The CRO notes that the candidate party has recourse to the Judicial Board should he wish to appeal this ruling.

Respectfully, Colby Briggs
PGSS Chief Returning Officer