

On the complaint of June 28th 2015

UA Judicial Review Board
Olivia BRODE-ROGER (chair),
Wajeeha AHMAD,
Saleem ALDAJANI

November 19, 2015

Summary

The Judicial Review Board considers that Matthew DAVIS' complaint of June 28, 2015 to fall outside of its duties as the Judicial body of this association. As such, we decline to make a decision.

1 Rationale

The original complaint (see 2.2), calls for the Judicial Review Board to take two actions: investigate the situation (described in an email to Council, see 2.1) and identify what constitutional violations may have occurred. This call is based on the purpose of the Judicial Review Board, as outlined in the Constitution, Article II, Section C, 2 (see 3.2). In line with the reasoning outlined in an earlier personal statement (see 2.3), we believe that both of these fall outside of the duties of the Judicial Review Board.

Regarding the first task, we do not interpret our limited investigative powers, described in the Constitution, Article II, Section C, 4.b (see 3.3) to extend to allow a full historical investigation into the finances of the UA. In addition to having limited investigative power, we also believe there exists a very serious conflict of interest when the same body both finds and rules on violations. As such, we do not think the Judicial Review Board should be carrying out an investigation into the UA finances.

Regarding the second task, the Judicial Review Board being the judicial body of this organization (Constitution, Article II, Section C, 1 (see 3.1)), does not engage in speculation as to what may or may not have happened. We believe the game of judicial guesswork to be

best left to Council, in its role as the representative and legislative body of this association.

As far as we are aware, this is the first time in recent memory that the Judicial Review Board has rejected a complaint. We do not believe that we are setting a strong precedent: we have limits on our jurisdiction, and we have clearly identified this as outside of it. Secondly, the precedent that would be set in letting the Judicial Review Board become an investigative body, or worse, a speculative body, would significantly change the behavior of this board and would undermine its credibility as an independent body towards UA members.

As such, we will not make a decision on this complaint. However, an investigation is currently being led by the MIT Audit Office (see 2.4), due to produce a report in October.

2 Relevant emails

2.1 Matthew Davis' email to Council

Reference added for clarity

Date: Wed, 24 Jun 2015 10:42:48 -0400
From: Matthew Davis <mattjd.mit@gmail.com>
To: "ua-council@mit.edu" <ua-council@mit.edu>
Subject: Budget Update and Debt

Dear Undergraduate Association (UA) Council,
I hope all is well.

I must warn you that this email will be long and full of numbers; but I ask you to bear with me and read it through to the end. The undergraduate body will be sent an email this evening, relaying the information contained herein.

The fiscal year for 2014-2015 ends on June 30, 2015. For every student group, this means that their finances from the previous year must be resolved by this date. The UA is no different - prior to this time, working with Colin Codner in the SAO, we tally up the income and expenses from the previous year, and determine our monetary situation moving forward into the next year. On Friday, while we resolved the numbers from last year, we encountered the difficult knowledge that the Undergraduate Association has run through its money, and

will end the fiscal year with a total balance of -\$52,255.22 in the Umbrella account, and \$0 in the Reserve account.

To understand how we got here, it is important to start with our approved budgets for the Fall <https://docs.google.com/spreadsheets/d/1Vv9IOCEPD504M05zEjYRRswbN8o4zT/edit?usp=sharing> and Spring https://docs.google.com/spreadsheets/d/1WJstxovqqIX6pAehBk01rfJwGMkALDcHU_GoQ94E6k4/edit?usp=sharing semesters (these budgets can be accessed by clicking on either Fall or Spring). In these budgets, it was assumed that the starting balance of the UA at the beginning of the Fall 2014 semester was \$392,878 in the Umbrella account, and \$85,060 in the Reserve account, for a total surplus of \$477,938; however, in reality, the total funds available were \$84,000 in the Umbrella account, and \$85,060 in the Reserve account, for a total surplus of \$169,060. So, the estimate for the Umbrella account was off by a significant amount. We do not yet know the answer as to why this was the case.

With these false estimates in mind, the UA budgeted to withdraw \$102,748.02 from the Umbrella/Reserve accounts in the Fall, and \$103,622.90 from the Umbrella/Reserve accounts in the Spring. This would be a total draw of \$206,370.92 from our surplus, which was already over the total amount that actually existed.

In the meantime, the budget called for the Financial Board to budget \$176,509.54 in the Fall semester, and \$175,275.70 in the Spring semester, for spending on student groups. However, the budget also called for an "over-allocation percentage"; this is an amount for the Financial Board to allocate to student groups over the budgeted amount, in order to ensure that student groups spent the amount budgeted. This "over-allocation percentage" was estimated to be 48.8%; or, student groups would spend 48.8% of the money they were allocated. Accordingly, the budget called for the Fall allocation to be \$362,626 , and the Spring allocation to be \$360,091.16 . Unfortunately, the actual percentage of allocated money spent by student groups was 61.2%. Financial Board allocated a total of \$688,362.47 for the entire fiscal year, just under the total amount they could have allocated - with the larger spending by student groups, the total spent was \$421,122, while the total we budgeted for was \$351,785.24. This meant that student groups spent \$69,336.76 over the budgeted amount.

The difference between the estimated money available and the actual money available, the actual spending of the UA, and the actual spending of the student groups, versus our budgeted numbers, led to our deficit of -\$52,255.22.

What this means, is that when the UA takes in its revenue in July (\$315,406), we will have to pay off this deficit, leaving us with a total of \$263,150.78 to spend for the 2015-2016 academic year. For reference, this is \$4000 less than our total budget for just the Fall semester last year. This money has to be used to fund our undergraduate student groups, as well as keep the operations of the UA going. The reality of the situation also means, that we no longer have a surplus or reserve to draw upon this year, and it will have to be built back up over the next few years. Our student groups, as well as the UA, will take significant cuts to their funding this year.

In the immediate, short-term, the summer allocations for student groups were due to be delivered to Council on Monday, June 22, 2015 (two days ago). Initially, the allocation amount was \$109,000, as it continues from the previous year's budget. I asked our Treasurer, and our Financial Board chair, to delay announcing these allocations until Monday, June 29, 2015, while they revise the funding amounts for each category, and also stop using the over-allocation percentage. At the very least, it can be expected that allocations to student groups will be halved this year as compared to last year, as our budget has been halved. Even if we used our entire budget to fund our student groups, we would only be able to give them just over half of what they spent last year.

Moreover, we predicted that there would be some kind of monetary crunch, either now or in the future, when we were selecting our committee chairs. This was due to the fact that mandatory expenses, such as those being paid to student groups, were higher than our income and eating into the surplus. Accordingly, we had recreated the committees on Resource Development and Alumni Affairs, and the chairs for these committees were presented at our last Council meeting. Resource Development is a committee solely dedicated to finding new and creative sources of funding for the UA, while the Alumni Affairs committee is tasked with finding and maintaining relationships with various alumni. Our aim is that the former, over the course of the Fall semester, will find new funding that will boost our income in the Spring, while rebuilding our reserves, so that we contain most of the hardship for students to the Fall semester. In the meantime, Alumni Affairs will build long-lasting relationships with alumni, that will bring new stability and support to the organization over the long-term.

Moving forward, our concern is understanding what happened and why. It is no secret that the UA has utilized terrible budgeting and monetary practices for

the past few years, and Sophia and I came to office hoping to reform these practices. This situation, while unfortunate and difficult, provides our organization the impetus and the necessity to reform, and take a hard, honest look at the way we operate. While it may be painful, it is absolutely necessary to know what we do poorly so that we can improve. Our goal, is not to only prevent this from happening in the future, but to establish a solid foundation of best practices around budgetary and monetary management, so that the UA not only recovers but thrives in the future. In order to ensure that we take as insightful and honest a look as possible, and in the belief that there are questions that need to be answered sooner rather than later, I am exercising the authority in Article IV, Section A, Clause 3 (see 3.4), in light of the fact that our next Council meeting will be in September. I will initiate the process of establishing an Independent Review Committee that will investigate what happened, how the UA manages its money, and make recommendations for changes. This committee will be comprised of two faculty, two staff and two students, and will be led by our Vice President, Sophia Liu. The two students will be chosen from outside of the organization through the Nominations Committee, led by our Chief of Staff, Githui Maina. The membership and operational procedures of this committee will be presented to Council by July 15, 2015. At our first meeting in September, we will have the opportunity to debate it and vote on it. In the meantime, I will make a full presentation of this proposal to Council on Saturday via email.

Additionally, this is the first year that we are following the budget creation process outlined in the Constitution. We finalized the membership of the Special Budgetary Committee accordingly at our last Council meeting. It is my present belief that many of these problems arose, because there were not enough critical eyes asking tough questions of the Principal Officers at the time. It is my hope, that this group will do so, and produce a better, more accurate budget for the Fall Semester. It has also been our intention to establish a joint Council-Exec Committee on Government Accountability, so that there are more Councillors that have full access to the operational information of the UA, such as our funds. Having these additional people checking and ensuring that officers and committee chairs are both properly performing their duties, as well as making sure the information they convey is accurate, will make it difficult for future governments to misrepresent, either intentionally or mistakenly, information.

Finally, I would like to end by saying that this crisis presents an opportunity

for reflection, as well as a constructive effort towards building a stronger, better organization for the future. The UA is the student government of the world's premier scientific and technological institution - and our students deserve no less than the very best from our government. It is my hope, that this situation provides a wake-up call that we need to create the changes that are necessary, and make the organization that we all dream it should be.

If you have any questions, please feel free to email me, or reply-all to this email. I will be in Boston this weekend, for those that may want to meet; and I am also available to text or a phone call after 6:00PM today. I will be distributing my number to the ua-council-members@mit.edu thread immediately following this email.

Thank you for your time.

Sincerely,

Matthew Davis

Class of 2016

Massachusetts Institute of Technology

2.2 Matthew Davis' complaint to the Judicial Review Board

Reference added for clarity

Date: Sun, 28 Jun 2015 01:07:38 +0200
From: Matthew Davis <mattjd.mit@gmail.com>
To: ua-judboard <ua-judboard@mit.edu>
Subject: Complaint concerning the UA

Dear Undergraduate Association (UA) Judicial Review Board,

I hope all is well.

I am Matthew Davis, the UA President and Chair of the UA Council.

On Friday, June 19, 2015, I was notified by Colin Codner in the Student Activities Office (SAO) about a debt incurred in the UA Umbrella and Reserve accounts. The full details of this incident were laid out in an email to both the UA Council and the undergraduate body on Wednesday, June 24, 2015.

A key part of this incident revolves around a misrepresentation of the UA's finances in both the Fall 2014 and Spring 2015 budgets. Specifically, an amount of money was presented as being present in the UA's Umbrella Account, while

in actuality, a smaller sum of money was present in that account. When Council approved the budget, it utilized the wrong amount of money in the account as a basis for decisionmaking. Moreover, as time went on, for some reason, no indication was made as to the idea that we had less money than we believed.

Accordingly, I am asking the UA Judicial Review Board, pursuant to its authority in Article 2, Section C, Clause 2 (see 3.2), to "hear complaints from members of the Association concerning the governmental bodies and act to resolve the situation," to investigate the situation outlined above, and in its mentioned emails, identify what constitutional violations may have occurred, and what parties may be responsible.

Thank you very much for your time.

Sincerely,

Matthew Davis

Class of 2016

Massachusetts Institute of Technology

2.3 Wajeeha Ahmad and Olivia Brode-Roger's response to the complaint

Reference added for clarity

Date: Mon, 6 Jul 2015 09:19:26 -0400

From: Olivia Brode-Roger <nibr@mit.edu>

To: Matthew Davis <mattjd.mit@gmail.com>

CC: "ua-judboard@mit.edu" <ua-judboard@mit.edu>

Subject: Re: Complaint concerning the UA

Dear Matthew Davis,

First of all, we would like to clarify the purpose of this email. The entirety of the board has not yet been able to be consulted on this issue and we do not have procedures in place for coming to decisions in the absence of one or more of our members. As such, this email is not a decision, but what we believe appropriate to send out at this time. For this email, "we" will refer to Wajeeha and Olivia only.

We both agree that this complaint falls out of the duties of the Judicial Review Board. This stems from multiple reasons: the Board does not have the appropriate investigative powers, and anything else would result in judicial guess work, which we aim to avoid at all costs.

The constitution does grant the Judicial Review Board some investigative power, allowing it to: “request a report, either written or verbal, from any officer of this Association or member of the Council” (Constitution, Article II, Section C, 4.b (see 3.3)). However we do not understand this as allowing it to carry out an investigation of the current situation, which would require a much broader analysis of the issues in the UA financial accounts. We also do not believe that investigations should be managed by the same body that will decide whether violations occurred, due to the inherent bias of both searching and ruling on the same violations.

In addition, asking the Judicial Review Board to “identify what constitutional violations may have occurred, and what parties may be responsible”, without an investigative power, would result in a game of judicial guesswork limited only by our imagination. This could have disastrous consequences on the UA ranging from a loss of credibility in the judicial branch to perhaps chaotic situations induced by the uncontestable unfounded decisions of the Judicial Review Board.

Finally, the question of precedent arises. Accepting such a request would result in turning the body in charge of ruling on violations of the governing documents, into one also in charge of finding such violations. We do not think that this falls within the role of a judicial body. Denying such a request would not set a strong “pick and choose” precedent, since this complaint is more of an investigation request than an actual complaint.

As such we believe it would be appropriate to return to the Judicial Review Board with a complaint about specific events instead of an investigation request.

We would like to emphasize again that this is not a decision from the Judicial Review Board.

Thank you,
Olivia and Wajeaha

2.4 Announcement of the MIT Audit Office’s investigation

This is an excerpt from an email to undergrads@mit.edu on Mon, 14 Sep, 2015.

Date: Mon, 14 Sep 2015 18:09:58 +0000
From: Matthew J Davis <mattjd@mit.edu>
To: "undergrads@mit.edu" <undergrads@mit.edu>

Subject: [UA] Council Meeting, Summer Updates

Independent Review Committee Update

Earlier in the summer, I wrote to you concerning the UA's deficit, and our path moving forward. In it, I outlined a process to form an Independent Review Committee, which would be chaired by the UA Vice President and made up of faculty, staff and students.

I received lots of feedback on this committee, from students, Councillors and advisors around MIT. This feedback focused on whether the committee could truly be independent, because it was headed by the Vice President, that the process was not transparent enough, and that the timeline was too fast to develop a good process. I agreed completely. It was not conducive to our goal is to find out what really happened in an open and honest way.

Accordingly, we re-thought how we would go about the review. I took a few days off from my internship, and came to MIT to seek the advice of people around the Institute. I requested that the MIT Audit Office review our accounts, and look for any potential wrongdoing. The MIT Audit Office is an independent body within the Institute, that is charged with maintaining its integrity. Their report will be completed in October. I also asked our Dean of Student Life, Dean Colombo, to charge a committee of faculty, staff, undergraduate and graduate students to review our processes and how this situation came to be. This committee, made up of people completely outside of the organization, will be able to take an independent look at what happened and give us a report on what happened, as well as recommendations to move forward. This report will be made public to all students, and presented at a Council meeting.

More information, such as how to be involved in the Review Committee, will come out later this month.

I must also take a moment to apologize for not informing you sooner about these developments. They took a long time to coordinate and turn into reality, and just at the beginning of this month started to come together. If you have any questions or concerns about this process, or anything that is stated above, please feel free to send me an email. There is also a feedback form at the end of this email. It will also be discussed at the Council meeting on Wednesday.

3 Relevant excerpts of the governing documents

3.1 Constitution, Article II, Section C, 1

The UA Judicial Review Board (Judicial Board) shall be the judicial organization of this Association.

3.2 Constitution, Article II, Section C, 2

The purpose of the Judicial Board shall be to interpret this Constitution and other governing documents of the UA in cases of dispute between the bodies of this organization or its members. Additionally, this board shall hear complaints from members of the Association concerning the governmental bodies and act to resolve the situation. This Board shall also oversee the creation and operation of the UA Election Commission as delineated in the UA Election Code.

3.3 Constitution, Article II, Section C, 4.b

In order to carry out its responsibilities as listed in this section, this board may request a report, either written or verbal, from any officer of this Association or member of the Council.

3.4 Constitution, Article IV, Section A, 3

Ad Hoc Committees may be established by a majority vote of the Council Representatives approving a charter for the committee including: name, purpose, principles of operation, membership provisions, and provisions for the period of operation. In the case that the Council is unavailable to make a timely decision on establishing an Ad Hoc Committee, approval may be given by a 4/5 vote of all the Principal Officers. The Council must be immediately notified of such a decision and may override the decision at the next Council meeting.