

In Res Abel Mulugheta/ Sameer Desai (ESB / SG 2011 – 004)

Chair Eric D. Nimmer delivered the opinion of the Board:

In the matter of Abel Mulugheta and Sameer Desai, candidates for University of Texas Student Government (UTSG) President and Vice-President 2011-2012, heard on three counts of violating the institutional rules of the University of Texas at Austin as defined by section §13.501 sub chapter (b), the Division of Housing and Food Service and the University of Texas at Austin Trademark policy, all of which in turn breach section §6.06 and comes before the Election Supervisory Board under the guise and authority of section §3.04 of the Student Government Election Code, respectively. The respondents were found to be fully culpable and punishable under section §13.501, with a respected abstention in regard to the University of Texas Trademark policy until further information could be procured from legally authorized University sources.

The relevant chapter and subchapters of the governing institutional rules are as follows:

Section 13–501. *General Rule on Signs: (b) Subject to the rules in this subchapter and to the general rules in subchapter 13–200 and subchapter 13–300, a University person or organization may display a sign by holding or carrying it, by displaying it at a table (see subchapter 13–600), or by posting it on a kiosk, bulletin board, or other designated location. Signs may not be posted in any other location. Subject to viewpoint--neutral size requirements, the Division of Housing and Food Service has designated the window*

and door of a residence hall room as locations where the resident(s) of that room may post signs. Section 13-506 lists other designated locations.

Section 13-505 A-Frames: *(a) "A-frame" means a movable and self-supporting sign board designed to stand on the ground. A-frames may not exceed five feet in height or width. Structures that do not meet this criterion will be considered exhibits and will be subject to the rules in subchapter 13-700.*

Section 13-701 General Rule on Exhibits: *(b) Academic or administrative units and registered student, faculty, or staff organizations may erect exhibits, subject to the rules in this subchapter and to the general rules in subchapter 13-200, subchapter 13-300, and subchapter 13-1000. Advance permission is required from the dean of students, except that an academic unit may authorize indoor exhibits in a space that it occupies and controls. Outdoor exhibits may not be erected on the Main Plaza between 8:00 AM and 5:00 PM."*

Whereas, the Board has found the campaign to be objectively and admittedly in violation of the aforementioned policy, the Board has deemed a Class A punishment as governed by the Student Government Election Code appropriate, a taxing of 5% (five percent) of the party in question's allotted budget shall be levied. This penalty shall be paid and accounted for on the candidates' next financial statement.

While there was an attempt at arguing a substantiated claim that several other campaigns had transgressed as well that does nothing to speak to the fact that the formerly stated rule was not violated. It is this Board's opinion that a transgression of a rule, albeit electoral, institutional

or otherwise appropriated is not dependent upon the number of persons that have contravened but upon the objective fact as to whether the party in question did or did not in fact transgress.

The relevant section of the Division of Housing and Food Service code is as follows:

“Solicitation (including non-commercial solicitation), political campaigning, selling, or any business activity in the residence halls or dining rooms is not permitted unless specifically authorized. Invited, non-disruptive solicitation conducted in an individual residence hall room is permitted. Section 13-205 of the Institutional Rules on Student Services further defines permissible solicitation.”

Whereas, the Board did well receive and consider the exhibit submitted by the petitioner of a flyer being posted in prohibited space within the context of a residential area, the actor responsible for said action was not acting in a capacity in which this Board could deem as authorized by the respondents’ campaign.

Sections 2.10 and 2.11 of the Student Government Election Code clearly delineate the roles of supporters from that of “agents” and/or “workers” in so far as the latter relationships have to be recognized and accepted by the party in which the person or persons in question which to represent.

The Board was given no reason to believe that said actor was recognized or accepted by the respondent and thus this count has been dismissed as a result of a lack of compelling evidence to the contrary.

The relevant section of the University of Texas at Austin's Trademark Policy is as follows:

“Registered student organizations are not considered "officially sponsored" by the university. Therefore, registered student organizations may not use the name of The University of Texas at Austin, an abbreviation of the name, or any of its trademarks or logos in its name...Trademarks include but are not limited to the following: The University of Texas at Austin™, The University of Texas®, University of Texas®, Texas®, Longhorns®, UT™, seal design, tower design, Hook em Horns®, Bevo®, Lady Longhorns®, interlocking UT, block T, Longhorn Silhouette, running mascot caricature, longhorn caricature, Helmet logo, Texas w/ longhorn design, Hook 'em hand sign, Hook 'em™, Get Hook™, Horns™.”

Whereas, this policy is innately legal in nature and thusly inherently subject to the interpretation of the University of Texas and aligning authorized legal representatives, the Board has concurred to defer the adjudication of this charge until further information can be ascertained. At which point a prompt addendum to this decision will be provided by the Board.