

In Res Madison Gardener/ Antonio Guevara (ESB / SG 2012 – 003)

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

In the matter of Madison Gardner and Antonio Guevara candidates for University of Texas Student Government (UTSG) President and Vice-President 2012-2013, heard on one count of failing to report an in kind contribution and on one count of failing to report purchases at fair market value.

On the count of failing to report purchases at fair market value, the Board has found the named party to be at fault. The known price of “renting wood” could not be definitively established however, it is the belief of this Board that said items were obtained as a direct result of having privileged information. Seeing as the Board has determined fair market value to constitute as *an estimate of the market value of a property, based on what a knowledgeable, willing, and unpressured buyer would probably pay to a knowledgeable, willing, and unpressured seller in the market*, Title III Article III Subchapter A is applicable.

Title III Article III Subchapter A reads as follows:

3.18 Each candidate's financial records must list identifying information (name, item, etc.) and amounts of each contribution and expenditure. Contributions and expenditures of non-monetary assets or in-kind efforts must be listed and valued at their fair market value, as determined by the Election Board. Each financial disclosure statement must have all expenditure receipts attached. All expenses must be included in the financial disclosure report. Campaign materials promoting

* The above refers to both the evidence submitted by the defense before the hearing and the relevant testimony gathered during its conduction.

an executive alliance must be accounted for and divided equally among the financial disclosures of each candidate mentioned by name in the materials.

In accordance with the Board's interpretation, the materials that were acquired were not proven to have been priced fairly in regard to the aforementioned definition. As far as the Board is concerned, the lack of publication of such a resource was reviewed to a select few thus inherently depriving other candidates from even comprehensively having the chance of becoming *knowledgeable* consumers.

With all these factors carefully taken into account, the Board has decided to levy a 10% fine against the named party. Implicitly, the Board has chosen to institute this Class A action for the given amount as a means to rectify the difference monetarily between the Board's findings of what is to be considered a fair market value for the materials – while taking slight depreciation into account – and as a punitive measure for violating the previously mentioned portion of the election code.

On the count of failing to report the design and consulting fees for the candidates' website, the Board has ruled that the party was not in violation. The petitioner failed to definitely prove to what extent that a "professional" was in fact used or even that the same resource could not have been procured by any other person(s).

Prior to the conduction of this joint hearing the defense filed a counterclaim of misrepresentation and submitted exhibits depicting the use of a fraudulent title by the petitioner. At which point it was brought to the attention of the Board* that unfair methods were used in attempts to receive information that may have not otherwise been gathered. The evidence of note

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came in the form of a declaration of a falsified title via a social media site and an email correspondence in which the petition invoked the same falsified title.

The petitioner failed to ever state their position as a student concretely. Consequently, the Board has rightfully elected to only consider the undisputed evidence as presented. When asked to verify the validity of the claims posed against them - the petitioner - claimed to have assumed said title without any conscience attempt at deceit. Despite the dismissal of ignorance being a valid defense for any transgression pertaining to this election cycle - as illustrated in Title II Article I clause 1.08 - the Board has concluded that this act was blatant for three independent reasons.

1. The shown social media exhibit demonstrated the acknowledgement of wrongdoing. The petitioner claimed to be employed by the University of Texas at Austin as an "Election Supervisory Representative." At one point the petitioner removed the title from the site under the guise that they should be by other peers. This is seen as a warrant for the blatant attempt to be deceitful because the removal of said title from the social media site predated the email correspondence in which the petitioner once again misrepresented themselves.
2. The petitioner claims to have attempted to contact the recipient of the email at length to no avail. Then, after being met with failure the petitioner invoked the fraudulent title.
3. During the course of the hearing, the petitioner openly apologized and volunteered to take sole fault with little to no objection as to the authenticity of the evidence.

This falls within the purview of the Board's jurisdiction as granted by the Student Government assembly by way of compromising the integrity of the election's process. In

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compliance with the new standing code and prior unchanged interpretations of the Board's role once an issue has been raised by an outside party the Board has the right to subpoena and exercise all given powers in order to protect the sanctity of the election's process. With that in mind, the Board acknowledged the counterclaim and its respective warrants in which case the petitioner was given time to review the allegation and mounted a defense before the Board.

The Board also acknowledges the petitioner's true position as a recognized agent of the Yaman Desai and Whitney Langston campaign. Being that the petitioner is a sanctioned agent, Title II Article II clause 2.09 outlines the purview of the petition in regard to the campaign in which they are an agent.

Title II Article II clause 2.09 reads as follows:

2.09 "Agent" refers to any candidate-appointed worker who is authorized to speak and act on behalf of the candidate

Seeing as the code explicitly holds the candidate(s) accountable for all actions done by the agents that they themselves authorize to speak on their behalf, the indiscretion of the agent is comparable to the direct misconduct of the candidate(s).

While, the above holds true, the Board has no choice but to consider the previously stated behavior as a misdeed by the entire campaign and not just the individual. Therefore, what has been interpreted by this Board as a blatantly fraudulent action applies to the entire party as a single entity. As a result, the Board has deemed a Class D judgment appropriate. This punishment shall entail the immediate disqualification of Yaman Desai and Whitney Langston, candidates for University of Texas Student Government (UTSG) President and Vice-President 2012-2013.

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Eric Nimmer – Chair, Election Supervisory Board

Truc Nguyen – Vice-Chair, Election Supervisory Board

Robert Toto – Secretary, Election Supervisory Board

Blake Baker – Member, Election Supervisory Board

Rick Lewis – Member, Election Supervisory Board

Ryan Lutz – Member, Election Supervisory Board

Charles E. Maddox – Chair Emeritus, Election Supervisory Board

Cody Permenter – Member, Election Supervisory Board

Ady Wetegrove – Member, Election Supervisory Board

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