

*In Res Madison Gardener/ Antonio Guevara (ESB / SG 2012 – 007)*

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 multiple accounts of various allegations, the Board has elected to take each individual matter in turn as follows.

In regard to the count specifically alleging the misrepresentation of professional work on a website, the Board has decided that the petitioner did not adequately meet his burden of proof in relation to expensing the general worth of the consultation of an individual that has been deemed to be a nonstudent specialized worker. While the individual's status as a professional can be reasonably questioned, the individual has not been shown to operate exclusively in this capacity and has been recorded as testifying to the contrary.

In regard to the uncontested acquisition and misfiling of the multiple domain names and/or websites, the Board has found the respondent fully culpable. The relevant corresponding section of the Student Government Election Code can be found in Title III Article III Subchapter B clause 3.23.

Title III Article III Subchapter B clause 3.23 reads as follows:

*3.23 Failure to file accurate financial disclosure statements by the deadlines listed in this section, or falsification of financial statements, shall qualify the candidate for disqualification by the Election Board.*

In accordance with this Board's previous ruling, pertaining to the misfiling of accurate values, the Board has deemed a Class A punishment by way of a 10% fine and the claiming of both used sites at their full costs appropriate.

In regard to the counts pertaining to the failure to report promotional materials and failure to itemize materials explicitly as required by the Student Government Election Code Title III Article III Subchapter B clause 3.18, the Board finds the respondent fully culpable.

Title III Article III Subchapter B clause 3.18 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 an executive alliance must be accounted for and divided equally among the financial disclosures of each candidate mentioned by name in the materials.*

The Board has deemed that the reception of the item in question and even its live display did not necessarily contribute to the shirt in question being classified as a campaign material. However, the intentional distribution of the image via campaign mediums does subject said shirt to be classified as a promotional campaign item and as such should be expensed. The itemized listing of supplies (whether paints or any other item) is required by the Election Code and has been proven by the petitioner to not have been met within the respective financial disclosure of the respondent. In regard to the immediately aforementioned counts and in accordance with the

Board's previous decision (*In Res Scott Parks/Muneezeh Kabir (ESB/SG 2010-001)*), this Board has deemed a Class A punishment by way of a 5% fine appropriate.

In regard to the count of early campaigning, the Board has found the respondent to be fully culpable. Title II Article VIII clause 8.02 prohibits candidates from bringing "attention to their campaign or election before the appropriated time."

Title II Article VIII clause 8.02 reads as follows:

*8.02 All candidates are prohibited to solicit or bring attention to their campaign or election before the appropriated time.*

Calling for the assembly of an assortment of individuals who are not present as the direct result of the "individual recruitment of team members" (as described in Title II Article VIII clause 8.03) to be available for the purposes of a campaign photo-shoot does in fact bring attention to one's campaign. In accordance with this Board's finding and previous decision (*In Res Yaman Desai/ Whitney Langston (ESB / SG 2012 – 001)*), this Board has deemed a Class C punishment by way of a one day moratorium and a 5% fine appropriate.

In regard to the uncontested failure to report a punishment, as levied by this Board, and the petitioner's request to view financial violations in the aggregate, the Board has deemed the request suitable and the respondent admittedly culpable. Despite the submission of a "corrected financial disclosure" after the scheduled hearing, the Board dismissed the submission under the governance of 3.23 which clearly expresses the regard for timeliness. The Board's interpretation of Title III Article III Subchapter B clause 3.23 and Title II Article IV Subchapter B clause 4.15, respectively, warrants this finding.

Independently of each other, both uncontested violations violate clause 3.23. The uncontested allegation that the respondent has falsified financial information clearly is defined as a “failure to file accurate financial disclosure statements.” This same line of reasoning can also be applied independently to the other contested findings of the Board as listed above in regard to the misfiling of any financial information.

The second uncontested violation deals with the “failure to accurate financial disclosure statements” in relation to the reading of Title III Article IV Subchapter A clause 4.04 of the Student Government Election Code.

Title III Article IV Subchapter A clause 4.04 reads as follows:

*4.04 Total expenditures shall include all campaign expenditures and fines issued by the Election Supervisory Board.*

Furthermore, the Board has also found that the failure to acknowledge the fine not only violates the aforementioned sections but also falls under the guise of Title II Article IV Subchapter B clause 4.15.

Title II Article IV Subchapter B clause 4.15 reads as follows:

*4.15 If, after a hearing, the Election Board finds that provisions of either this Code or decisions, opinions, orders, or rulings of the Election Board have been violated by a candidate, or a candidate’s agents or workers, has committed a Class D violation, the Election Board may disqualify the candidate.*

Whereas, the respective relevant areas of the Election Code express the same level of severity via explicit statement of ramification when taken independently or in tandem, the Board

has deemed a Class D punishment appropriate. This punishment shall entail the immediate disqualification of Madison Gardner and Antonio Guevara, candidates for University of Texas Student Government (UTSG) President and Vice-President 2012-2013.