

# 2016 Election Supervisory Board

In Res. Kevin Helgren and Binna Kim

ESB Resolution: 2016-010

Election Supervisory Board Alternate Member Erin Larson and Member Elizabeth Vigants delivered the majority opinion of the board:

*“In the matter of Kevin Helgren, Binna Kim, candidates for Student Government Executive Alliance during the 2016 campaign season, the Election Supervisory Board heard two complaints regarding a count of unauthorized campaigning.”*

Whereas, Title II, Chapter VIII, Section 8.2 states: “*UNAUTHORIZED CAMPAIGNING. All candidates are prohibited from campaigning, soliciting, or otherwise bringing attention to their campaign or election before the sanctioned campaign period.*” and,

Whereas, Title II, Chapter VIII, Section 8.2 (b) states: “*However, this prohibition does not include the be personal individual recruitment by a candidate of individual team members*” and,

Whereas, Pursuant to Title II, Chapter IV, Section 4.11, the Election Supervisory Board conducted a hearing on March 3rd, 2016, to ascertain the facts of the complaint brought forward by, a student of the University; and,

Whereas, the ESB is **dismissing the solicitation to be in a photo as part of the claim of early campaigning**; and,

Whereas, The complainant, Shannon Geison, submitted a screenshot submitted to her on 2 March 2015 of a message sent on February 14, 2016, outside of the designated campaign period; and,

Whereas, Title II, Chapter I, Section 1.8 states: “*IGNORANCE. Ignorance of this code shall not be an acceptable defense response to any offense committed in any election under this code; either by the candidates themselves, their agents or workers, or the election regulatory bodies, as defined by this code.*” and,

Whereas, Title III, Chapter IV, Section 4.5 states: “*EARLY CAMPAIGNING OR ENDORSING. No campaigning or endorsing will be allowed until the official campaign period has begun as determined by the Election Supervisory Board.*” and,

Whereas, Title II, Chapter VIII, Section 8.2 (b) states: “*However, this prohibition does not include the personal individual recruitment by a candidate of individual team members.*” and,

Whereas, Title II, Chapter II, Section 2.20 states: “*“WORKER’ refers to any person that contributes time, effort, or services, for the purpose of supporting or furthering a candidacy, where the candidate or agent has knowledge of said contributions.*” and,

Whereas, The February 14, 2016 message sent to an Camp Texas GroupMe by Kevin Helgren read: “*Hello friends, and happy Valentine’s Day!! if you’re looking for a way to pass the time on this beautiful Sunday afternoon, PLEASE stop by my place and help us paint! We have a*

*~cute~ outdoor studio set up, complete with good music and great company. You don't have to be artsy -- we have someone doing the designs, so you'd just need to paint inside the lines! We'll be here all afternoon and could use all the help we can get, so please stop by if you're free, even if it's only for half an hour! My address is [redacted], plenty of street parking. LOVE Y'ALL [heart eyes emoji]!"* and,

- Whereas, The facts of this case are substantially similar to ESB 2016-003, where similar complaints and comparable evidence were provided; and,
- Whereas, The February 14, 2016, message directly solicits campaign workers; and,
- Whereas, The message was sent to a group chat with a minimum of 18 individuals; and,
- Whereas, This directly violates Title II, Chapter VIII, Section 8.2 (b) which allows for only “*individual recruitment by a candidate of individual team members*” and,
- Whereas, The Student Government Constitution, Article V, Sec. 5.18 states “*PRECEDENTIAL VALUE OF SUPREME COURT OPINIONS. Opinions and rulings of the Supreme Court shall have binding precedential value over subsequent proceedings of the Election Supervisory Board.*  
*(a) The passage of time shall not cause the precedential value of an opinion to expire.*” and,
- Whereas, The case of Dimitroff v Kelley, 2012FE-001 resulted in a Class A Violation and \$60 penalty; and,
- Whereas, ESB strives for internal consistency regarding evaluation of violations and assigning the severity of violations as they occur, and that previous rulings do bear precedential value; and,
- Whereas, The SG Judicial Court stated in Spring 005-2016 “*the ESB and Supreme Court shall explain what is necessary for compliance with their rulings. Ambiguity in this explanation shall be a valid reason for why a Campaign stumbles in its following of a ruling. It shall not be a valid excuse for further procedural violations, even if they pertain to the same material facts.*” and;
- Whereas, Title III, Chapter 3 Section 3.22 of the Election Code requires that “*All expenses must be included in the financial disclosure report.*” and Chapter 4 Section 4.4 reads “*TOTAL EXPENDITURES. Total expenditures shall include all campaign expenditures and fines issued by the Election Supervisory Board and or Supreme Court.*” and therefore, let it be,
- Resolved, That the Election Supervisory Board has determined that the Helgren-Kim campaign failed to comply with Title II, Chapter VIII, Section 8.2 of the Election Code by failing to recruit campaign workers individually; and therefore, be it further,
- Resolved, That the violation of Title II, Chapter VIII, Section 8.2 was considered **less egregious** than the precedential case *Dimitroff v Kelley*, and identical in severity with ESB 2016-003; and therefore, be it further,

Resolved, That this failure to comply with the Election Code shall result in a **Class A violation of \$59.50 fine**; and therefore, be it further,

Resolved, That the campaign **must report this fine as an expense, and in the calculation of total campaign expenditures on the next financial disclosure** as a campaign expense; and therefore, be it further,

Resolved, That pursuant to Section 5.1 of the Campus-wide Election Code, which reads, *“APPEAL OF ESB DECISION: Any party adversely affected by a decision of the Election Supervisory Board may file an appeal with the entity with appellate jurisdiction within twentyfour (24) hours after the adverse decision is announced, **unless the Election Supervisory Board’s decision takes place during a voting period,**”* the right to file an appeal is **suspended, as the Election Supervisory Board’s decision takes place during a voting period.**

In conclusion, the Election Supervisory Board submits its resolution on Thursday, March 3 2016 with the majority of board members who were present at the hearing. Vice Chair Zachary Long does not join the majority opinion.

Sofia Aranha, Secretary

Elizabeth Vigants, Member

Erin Larson, Member

David McDonald, Member

Courtney May, Member