

2017 Election Supervisory Board
In Res. Isaiah Carter and Sydney O’Connell
ESB Resolution: 2017-003

Election Supervisory Board Chair Catrin Watts delivered the majority opinion of the board that:

“In the matter of Isaiah Carter and Sydney O’Connell, candidates for Student Government Executive Alliance, the Election Supervisory Board heard one count of unauthorized campaigning and one count of unsolicited e-mails.”

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 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 February 29, 2017, to ascertain the facts of the complaint brought forward by Amber Camilleri, Jessica Dorsey, and Eliav Terk, students at the University of Texas at Austin; and

Whereas, The complainants Jessica Dorsey, and Eliav Terk, received an email from Isaiah Carter and Sydney O’Connell in efforts to recruit them to the campaign team as part of a mass distributed e-mail; 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 case of Helgren-Kim ESB-Resolution 2016-003 resulted in a Class A Violation and \$59.50 fine (approx. 5.8% of that year’s SG Executive Alliance spending limit); and

Whereas, The case of Helgren-Kim ESB-Resolution 2016-010 similarly resulted in a Class A violation and \$59.50 fine (approx. 5.8% of that year’s SG Executive Alliance spending limit); and

Whereas, Section 11-404 of the Institutional Rules on Student Service and Activities, Student Disciplines and Conduct reads:

- (a) Notwithstanding any action taken on account of the violation by civil authorities or agencies charged with the enforcement of criminal laws, the dean of student may initiate disciplinary proceedings under subchapter 11-500 against a student who:*

*(18) engages in an inappropriate or disproportionate use of an information technology resource owned or controlled by the University or The University of Texas System or uses an information technology resource for an illegal, threatening, or intentionally destructive purpose; prohibited conduct includes but is not limited to circumventing system or network security, committing copyright infringement, **transmitting unsolicited e-mail**, sharing a University-issued password, falsifying an email header, and using resources for personal financial gain or profit;*

Whereas, The case of [REDACTED] ESB-Resolution 2015-003 resulted in a Class B Violation and a moratorium of 48-hours had the campaigning cycle still been in session;

Whereas, Carter compiled the list of email addresses in his role as Chief of Staff for Helgren-Kim;

Whereas, Students had given their email address to learn more about Student Government and not to receive emails regarding joining the Carter-O'Connell campaign team; and

Whereas, the email addresses obtained were gathered from the complainants while the respondent was working in an official capacity as a Student Government representative such that the emails were gathered for the benefit of Student Government not for the purpose of any one particular campaign or group of campaigns; and

Whereas, Carter stated that all Student Government Executive Alliances have access to the list of emails due to their current Student Government positions and therefore, the Carter-O'Connell campaign had no unfair advantage; and

Whereas, the role of a Student Government office is separate from that of an individual's campaign, and a candidate should distance themselves from conflating their office with their personal campaign such that the separation between the two roles is unambiguous

Resolved, That the Election Supervisory Board has determined that the Carter-O'Connell campaign failed to comply with Title II, Chapter VIII, Section 8.2 of the Election Code by failing to recruit campaign workers individually; and

Resolved, That the Election Supervisory Board has determined that the Carter-O'Connell campaign failed to comply with Section 11-404 of the Institutional Rules on Student Service and Activities, Student Disciplines and Conduct by transmitting unsolicited e-mails; and

Resolved, that precedent has determined that failing to individually recruit campaign workers has typically received a Class A violation of approx. 5% and precedent has determined that transmitting unsolicited emails has typically resulted in a Class B moratorium; and a Class A fine levied in tandem with a Class B violation would instead render a singular Class C violation; and

Resolved, That this failure to comply with the Election Code shall result in a **Class C violation of a \$27.50 fine and a 24-hour moratorium on campaigning** that shall go into effect on February 27, 2017 at 11:59 pm; and therefore be it further

Resolved, That the respondents, Isaiah Carter and Sydney O'Connell, have the right to appeal this decision pursuant to Title II, Chapter V, Section 5.1 of the election Code, which states: "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 twenty-four (24) hours after the adverse decision is announced, unless the Election Supervisory Board's decision takes place during a voting period.*"

In conclusion, the Election Supervisory Board submits its resolution on Monday, February 27th, 2016 with the majority of board members who were present at the hearing.

Catrin Watts, Chair

Alex Byron, Vice Chair

Catherine Wright, Member

Luis Limon, Member

Hudson LaMothe, Member

Dissenting Opinion:

The Carter-O'Connell campaign is still guilty of early campaigning on the grounds of "personal and individual" which is a class A violation resulting in a fine. The concern of mass emails even if it is under Bcc methodology is not personal, especially considering that the content of each email is exactly the same. The emails referred to the receiver of the email with the salutations "Hi There" further implying the generality of the email and the lacking of the personalized element.

However in regards to the 3rd party and unsolicited aspects of the violation, the Carter campaign is within the bounds of their power in regards to the precedence of similar issues. The issue of whether they 'know' the receiver is not relevant since it is not explicitly mentioned in the code as a violation. The Carter campaign states that all the emails were obtained through legal means of direct communication through tabling and/or online registration and the complainants failed to meet the burden of proof of proving otherwise. Although it was further clarified in the ESB/AO 2017-002 mentioned earlier this year that you should add to your campaign only those who you 'know', it is not as explicit in the code during the time of these events. Therefore, not knowing the candidates does not automatically qualify as 'unsolicited'. This issue can also be extended to discuss to what extent a person should 'know' a student before they are allowed to invite them to their campaign as an agent or worker, or even if that is means that can lead to a complaint.

In ESB/AO 2015-001 statement that states, "Each candidate may use whatever internal program or document they choose to keep track of legally collected emails, but at no time may share

their email list with another candidate or 3rd party source.” The receivers of the email voluntarily gave their email to the SG email list that all the candidates had access to through internal means of previously being a part of the Student Government. This gives the Carter campaign the right to utilize the different emails so long as they do not share it or obtain it illegally(i.e. UT student directory). This is in addition to the fact that the students on the list had previously expressed interest in joining or getting involved in SG, which is not unrelated to the concept of campaigning for SG positions. Had the campaign been entirely unrelated to SG, the complainants may have been able to argue unsolicitation since they had never even expressed any sort of interest towards engagement with SG activities. However, it is unfair to draw the conclusion that interest in SG in general does not solicit any interest in the SG campaign.

The precedent case 2015-003 is not enough grounds to hold the Carter campaign accountable because Isaiah does not attempt to tailor his position as Chief of Staff or in any way imply the the current Student Government supports his campaign in the emails sent out to students. Therefore, the argument that “a candidate should distance themselves from conflating their office with their personal campaign such that the separation between the two roles is unambiguous” was never violated by the Carter campaign. The email is clearly sent from and signed off by the Isaiah and Sydney campaign. There is no misrepresentation of any body or entity that could lead to a Class B violation.

Maysa Alqaisi, Member