2015 ASI ELECTION COMPLAINT COMMITTEE DECISION

By SAMUEL N. JONES, chair

Members Present:
SAMUEL N. JONES, chair
MASON DANIELS, student representative
ARAVIND RAJENDRAPRASAD, student representative
SHEENAL SINGH, student representative

Members Absent:
FRANK LILLY, faculty representative

May 15, 2015
MIKE SHARIF vs YAJAYRA GONZALEZ

Mr. Sharif brought charges against Ms. Gonzalez stating that she did not report the actual retail price of her campaign website, used social media improperly, misrepresented her endorsement, and campaigned in a prohibited area.

Complaint:
- Failure to report actual costs of campaign website
- Improper use of Social Media
- Misrepresentation of endorsement
- Campaigning in prohibited areas

Statement of the complaint by complainant

Mr. Sharif alleged that Ms. Gonzalez, candidate for ASI President, created a website for campaigning purposes which cost exceeded what was reported on her expenditure report. He claimed, by not providing the accurate retail price, Ms. Gonzalez is in violation of Article V, Section A (actually Section B: typo in the Election Code) Campaign Expenditures, Section 1, Subsection b; Sections 2 and 5 of the ASI Election Code.

Also, Mr. Sharif alleged that Ms. Gonzalez, candidate for ASI President, and a member of the “Vision” slate used multiple platforms of social media to campaign unfairly. The use of hashtag #votevision linked to several other candidates together in one photo violated Article V, Section C, and Subsection 5; section i.

In addition, Mr. Sharif alleged that Ms. Gonzalez, candidate for ASI President, misrepresented an endorsement. He claimed by stating Gamma Phi Beta endorsed her violated Article V, Section C, and Subsection 6.

Finally, Mr. Sharif alleged Ms. Gonzalez, candidate for ASI President, campaigned in an authorized area. He claimed by wearing a button with the words “Yajayra Gonzalez for President” inside the ASI Government office violated Election Code Article V, Section C, and Subsection 5, section k.

Thus, argues Sharif, gave Ms. Gonzalez an unfair advantage over other candidates.
Summary of the testimonial and documentary evidence received at hearing in support of the complaint

Mr. Sharif presented the Committee with testimony stating that in the Elections Code candidates can spend up to $500 on the campaign. He stated Ms. Gonzalez expenditure report captured the website average cost at $8.00 for her domain name which was not the actual cost to host the caliber website used in Ms. Gonzalez’s campaign. Mr. Sharif stated a website needed a domain name and a hosting service for a website. Mr. Sharif confirmed the website existed within the PowerPoint screen shot of Ms. Gonzalez from Facebook alluding to her campaign website VoteYajayraGonzalez.com. Also, Mr. Sharif stated the candidate mentioned the existence of her website in her candidate forum.

Mr. Sharif entered into evidence Exhibit C-1. This document contained information about GoDaddy which examined Ms. Gonzalez’s website. In Exhibit C-1, the domain name voteyajayragonczles.com had the URL registered as www.enom.com. Also, the server name was NS1.mediatemple.net. Mr. Sharif stated the fore mentioned items were not listed on her expenditure form. He contested that the cost associated with enom.com and mediatemple.net cost beyond the $8.00 on the expenditure form that listed Weebly.com as the hosting site. The cost associated with having Media Temple, Inc. as the hosting service was $60 monthly and the eNom (domain name) was listed at $13.95. Mr. Sharif stated Ms. Gonzalez total expenditure was listed at $450.02 and if eNom and Media Temple prices were used, her cost would have exceeded the $500 allotted for campaign expenses.

Mr. Sharif entered into evidence figure one from the PowerPoint submitted with his complaint showing #votevision on Instagram. This photo capture the candidate slate “Vision” and specific members George Lopez, Chris Saenz, Logan Rivera, and other group shots. According to Sharif, this violated the election code concerning the improper use of social media.

Next Mr. Sharif presented evidence from the PowerPoint submitted with his complaint showing Ms. Gonzalez referenced being endorsed by Gamma Phi Beta. This is shown in Figure 1 directly after the Complaint Allegation referencing Article V, Section C, and Subsection 6 within the PowerPoint. He provided Exhibit C-3, a letter from the president of the Delta Chi Chapter of Gamma Phi Beta Sorority which indicated the endorsement was not true or accurate. The letter stated Gamma Phi Beta had not endorsed Ms. Gonzalez.

Finally, Mr. Sharif presented evidence of Ms. Gonzalez’s backpack within the ASI Office that contained the button “Yajayra Gonzalez for President.” Sharif stated Gonzalez was seen passively campaigning within the ASI Office and Board of Director’s Room. Mr. Sharif presented a photo of the backpack in Figure 2 and 3 within his original PowerPoint submitted for the complaint. The photos can be found directly after the Complaint Allegation referencing Election Code Article V, Section C, and Subsection 5, section k. He stated this violated the ASI Election Code by campaigning in a prohibited area.
Summary of the testimonial and documentary evidence received at the hearing in opposition or rebuttal to complaint

Ms. Gonzalez provided the Committee with her opening statement. She indicated she ran for the office of ASI President because she felt passionate for the students and the position. Ms. Gonzalez stated the allegations were “insignificant technicalities” and should not disqualify her from office.

Ms. Gonzalez provided Exhibit D-1 for her evidence. In response to the first allegation concerning her failure to report retail costs of the website, Ms. Gonzalez provided Appendix 1-4 for her evidence. Ms. Gonzalez stated she made her website and it was a free site. She responded to each allegation presented by Mr. Sharif. The first allegation concerned failure to report retail costs of the website. Ms. Gonzalez stated the website analyzer called StatsBee was not a credible source and not accurate. She further explained that the website was registered a month ago on April 6, 2015 and should not be used as credible evidence since it was activated for less than two months. Ms. Gonzalez stated she reported an average cost on her expenditure form from Weebly.com and Squarespace which were two leading companies within the field. She indicated this was the way to provide cost when without a receipt. Ms. Gonzalez referenced in Exhibit D-1 Appendix 4 showed unique “user” to the website in question and that the people were more than likely family and friends that looked at the website.

Ms. Gonzalez responded to the allegation concerning social media to be without merit. She indicated the evidence shown did not reference more than one candidate within the post. Ms. Gonzalez stated her face was not present in any of the photos and that she did not have time to search Instagram for any reference to her campaign while running for office and being a student. Also, she indicated she did not use #votevision.

The next allegation referenced by Ms. Gonzalez concerned the endorsement by Gamma Phi Beta. Ms. Gonzalez stated she had over 50 clubs and organization that had endorsed her. She admitted to making this error. Ms. Gonzalez stated it was a typo and she was actually endorsed by Gamma Delta Iota. She stated when she noticed the error; she corrected it during the campaign and would write a letter of apology to Gamma Phi Beta.

Ms. Gonzalez spoke to the final allegation concerning campaigning in a prohibited area. She admitted to the backpack in the photo as belonging to her. Ms. Gonzalez believed the photo was staged and coordinated to attempt to prove a violation occurred.

Summary of witness testimony

Mr. Sharif did not present initial witnesses.

Ms. Gonzalez provided the Committee with eight witnesses. The witnesses were Laura Grijalva, Anthony Maalouf, Stephanie Marin, Denise Barajas, Leo Nambo, Brenda Martinez, Karen Cabezas, and Mark Sohl. The witness testified to the integrity of Ms. Gonzalez. They stated rules can have exceptions and the allegations were minor issues. Some of the witnesses believed the complaints were filed as retaliation due to the loss of other candidates. Witness Maalouf stated the allegations were statistically insignificant. He further addressed the endorsement letter from Gamma Phi Beta President and stated if they all voted for Ms. Gonzalez and if the votes were taken away, it would not
have impacted the win by Ms. Gonzalez. Also, some witnesses indicated the rules need to be changed and that the “crime” does not fit the “punishment.”

Mr. Sharif called a rebuttal to respond to the validity of his complaint. The witness, Tucker Caruso, provided information about StatsBee. According to Mr. Caruso, StatsBee scans a website and collects data such as domain, host, and SSL certificates. He indicated it was used to scan VoteYajayraGonzalez.com. The data collected indicated this website was built by Media Temple, Inc. Mr. Caruso indicated the website was dynamic and allowed others to leave a message. He indicated he visited the website when it was launched and that he could not reproduce it based on the allotted $500 expenditure. Mr. Caruso stated the website was taken down and thus he can’t demo it for the Committee.

Statement of the remedy requested

Disqualification under Article 5 Section A (actually Section B: typo in the Election Code).

Statement of the burden of proof the complaining party or parties was required to meet

Clear and convincing proof is required for the Committee to award the remedy of disqualifying a candidate.

Conclusion as to whether the complaining party met the applicable burden of proof

Clear and convincing evidence is defined as that which “leaves no substantial doubt as to the veracity of the claim.” The Committee found the evidence presented by Mr. Sharif is clear and convincing because he was able to provide a preponderance of evidence to show that Ms. Gonzalez’s expenditure report did not list the real costs associated with the website VoteYajayraGonzalez.com. The Committee found Mr. Sharif proved that Ms. Gonzalez violated Article V, Section A (actually Section B: typo in the Election Code) Campaign Expenditures, Section 1, Subsection b; Sections 2 and 5 of the ASI Election Code.

Also, the Committee believed by admission that Ms. Gonzalez misrepresented her endorsement by Gamma Phi Beta and was campaigning within the ASI office. Based on the statements by Ms. Gonzalez, the committee found that she violated Article V, Section C, and Subsection 6 as well as Election Code Article V, Section C, and Subsection 5, section k.

In addition, the Committee found the allegation concerning the improper use of social media did not violate ASI Election Code.

Summary and reasoning supporting the Committee’s conclusion

The Committee found the evidence presented by Mr. Sharif proved the VoteYajayraGonzalez.com domain name was registered by eNom and hosted by Media Temple. The real cost for website was not reported on the expenditure form. During direct testimony, Ms. Gonzalez stated she built the website. The Committee asked Ms. Gonzalez to explain the process used to build the website. She was unable to explain the process. Later on, Ms. Gonzalez stated a friend helped her to build the website and thus does not recall “how to build a website” since it occurred awhile back. Also, Ms. Gonzalez did not remember how she started the website and did not remember how much was paid to start the website.
The Committee asked Ms. Gonzalez how she registered for the website and if cash, credit, or debit card were used to pay for the site. To respond to the question, Ms. Gonzalez stated that the website was free. This directly conflicted with the expenditure report details that list $8.00 for the website by comparing it to two other websites. This was direct testimony given by Ms. Gonzalez in her previous rebuttal to the complaint. Based on all evidence presented, the Committee found that the website was not free and was built using eNom and Media Temple. The Committee believed the costs exceeded the $500 allowed to campaign for an ASI position. The Committee found Ms. Gonzalez receipt comparison listed in her expenditure form was not accurate and was not a fair comparison to eNom or Media Temple.

The Committee found the evidence and testimony presented about the letter of endorsement was a misrepresentation. Ms. Gonzalez admitted to the typo concerning which organization actually endorsed her. She was not able to provide the committee with a letter of endorsement from Gamma Delta Iota.

The Committee found the evidence and testimony presented concerning the backpack with the button stating “Yajayra Gonzalez for President” belonged to Ms. Gonzalez and was in the ASI Office. Ms. Gonzalez admitted it was her button and backpack.

The Committee found the allegation concerning the improper use of social media did not violate ASI Election Code. The evidence presented did not show Ms. Gonzalez within the Instagram.

**Statement of the relief granted**

The Committee recommend disqualification as specified in Article V, Section A (actually Section B: typo in the Election Code) Campaign Expenditures, Section 1. Also, the Committee recommends disciplinary action is taken for falsifying documents and testimony during the ASI Election/Complaint process. This is specified according to Article X Remedies for Complaints, Section C.

According to Article X. Remedies for Complaints, Section A, the Committee recommends revision to ASI Election Code. Specifically, the following items to consider:

- Update the codes to address and allow broader campaigning within social media
- Allow candidates to establish slates and run as a team and be depicted in the same photos
- Add to the expenditure form a section to clearly outline all items needed for website development and cost associated to each area. This should include domain name, hosting, site, and SSL certificate, labor used, etc.
- ASI Elections should be earlier in the semester such as March or early April. This allows for more time to handle complaints before the end of the semester.