

BOLINO et al. v. ELECTION COMMISSION 04.28.2023

Ruling of the Judicial Review Board

## **MIT UA Judicial Review Board**

**BOLINO, IRVINE, OLADIMEJI, & SASNE v.  
UA ELECTION COMMISSION**

*Held:* The UA Judicial Review Board rules that:

1. The Election Commission did violate the UA Campaign Rules under Article III, Section E.
2. There is no evidence that the actions of the Election Commission gave UA President and Vice President candidates Andre & Michael an unfair advantage in the 2023 election.
3. We uphold the results of the 2023/2024 UA President and Vice President election.

### I

#### Case Proceedings

The Judicial Board received a formal complaint on April 6th, 2023 from UA President/Vice President candidates Paul Irvine & Lindsay Bolino and Arya Sasne & Favour Oladimeji against the UA Election Commission.

The Judicial Review Board members who presided over this case are Emily Tess, Emma Wang, and Caitlin Fukumoto, ruling unanimously.

On April 9th, 2023, the Judicial Review Board determined the complaint nonfrivolous and began the hearing process per Article IV, Section 2 of the Judicial Review Board Bylaws. On the same day, complainants were notified of the case acceptance as well as the three business day time frame to submit evidence (period ending at 5:00 PM on April 12th, 2023). All members of the Election Commission were made aware of the complaint on April 9th, 2023 and were given the same time period to submit evidence.

The Judicial Review Board requested a response to the contents of the complaint from UA President and Vice President Elects, Andre Hamelberg

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& Michael Hanson, on April 9th, 2023. A statement was issued by Andre & Michael on April 9th, 2023.

Following the April 12th, 2023 deadline for submitting evidence, all parties were granted access to individual statements made by members of the Election Commission, a statement by Andre & Michael, and supplementary evidence submitted by members on the complaint.

Following a review of all parties' schedules, a hearing was set for April 15th, 2023. All parties were in attendance at the hearing.

Following the hearing, per the Judicial Review Board Bylaws Article IV, Section 2.d, the members on the case met on April 19th, 2023 to discuss the opinion of this case. The finalized opinion was published on April 28th, 2023.

## II

### Jurisdiction

Under Article II, Section C.6.h of the UA Constitution, the Judicial Review Board is responsible for the overseeing of the Election Commission. Therefore, the complaint's allegations of wrongdoing or partiality on the part of the Election Commission fall within our jurisdiction.

## III

### On the Matter of Election Commission Website & Paper Ballot Booth

Under Article III, Section E of the Campaign Rules Document, the Election Commission must make a list of substantiated complaints filed against official candidates available both on the Election Commission's website and at paper balloting booths.

During the 2023 election cycle, the Election Commission ruled that two of the UA President/Vice President tickets (Andre & Michael and Paul & Lindsay) committed campaign violations and sanctioned them as such. However, the Election Commission maintained no website and posted no public information of campaign violations against any pair of candidates. Therefore, we find that the Election Commission was in violation of the Campaign Rules Document.

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However, there is no evidence to suggest that the lack of a website that would include public information of campaign violations unfairly favored or disfavored any of the UA President/Vice President candidates in particular, or was likely to have altered the results of the election.

The Judicial Review Board acknowledges that the Campaign Rules are out of date as UA elections no longer use in-person paper balloting booths. The Judicial Review Board recommends the Campaign Rules be revised to better suit the current procedures of UA elections, and advises future Election Commissions to follow all procedures outlined in the Campaign Rules.

#### IV

##### On the Matter of Wrongful Sharing of Information

The Judicial Review Board finds that there is no sufficient evidence that any members of the Election Commission shared confidential information with Andre & Michael.

The complainants submitted statements from friends recounting conversations with Andre & Michael, which they took to suggest that Andre & Michael had (i) access to demographics of voter turnout from previous elections and (ii) day-to-day updates of election standings during the voting period of March 21st - 24th, 2023.

The statements provided were imprecise and were indirectly conveyed to the Judicial Review Board, sometimes being relayed through several people. Therefore, the Board finds that the recounted conversations alone do not sufficiently prove any wrongdoing by the Election Commission, nor do they prove that Andre & Michael had access to this information.

Furthermore, the Election Commission testified that they do not collect aggregate demographic data on voter turnout, and that only the Election Commissioner (and not the other members of the Commission) had access to the live voting tallies during the voting period. The Election Commissioner stated that he did not communicate privately with Andre & Michael about the election during the voting period at all, and Andre & Michael stated that they did not receive any such alleged information.

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Therefore, the Judicial Review Board finds that there was no impact on the UA President/Vice President election results.

#### V

#### On the Matter of Unfair Sanctions

The Judicial Review Board finds that the Election Commission was within their rights to impose sanctions on UA President/Vice President candidates Andre & Michael and Paul & Lindsay. The Judicial Review Board also finds that the imposed sanctions did not unfairly favor any particular candidate.

During the election period, the Election Commission ruled that Andre & Michael committed an early campaigning violation by attending a Maseeh Hall Executive Committee meeting and an African Students Association Executive Board meeting on March 19th, 2023, the day before the start of official campaigning (in violation of Article II, Section 2.A.a of the Campaign Rules Document). The Election Commission sanctioned Andre & Michael by disallowing them from postering or chalking during the entire campaigning period. The Commission also ruled that Paul & Lindsay committed a violation by sending an email that was blind carbon copied to dorm mailing lists (in violation of Article II, Section 2.D.b of the Campaign Rules Document). The Commission responded by allowing the other two tickets to send one dormspam email each, and by canceling two of Paul & Lindsay's three scheduled in-person campaigning events on March 23, 2023. The Commission classified both Andre & Michael and Paul & Lindsay's violations as Level II moderate violations.

The Judicial Review Board affirms the Election Commission's ruling that both Andre & Michael and Paul & Lindsay's campaign violations were Level II moderate violations per Article IV, Section 2.B of the Campaign Rules, because both violations gave the offending candidates an unfair advantage over the other candidates. Campaigning too early and "sending a campaign email to a list of which the candidate is not a member" are both explicitly listed in the Rules as examples of Level II moderate violations.

As for the appropriateness of the chosen sanctions, the Campaign Rules Document provides guidelines on how the severity of a campaign

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violation should be assessed and on how a proper sanction should be determined. Rather than requiring predetermined sanctions, however, the Campaign Rules Document gives the Election Commission broad leeway to decide on appropriate sanctions based on the specific circumstances of the violation, stating that the guidelines “are written only as a suggestion for the Campaign Rules Board; the board is in no way handicapped or restricted by these guidelines” (Article IV, Section 1.A). Furthermore, under Article II, Section B.4 of the Election Code, the Commission is given the power to interpret the campaign rules and to impose sanctions.

The Election Commission’s chosen sanctions for both Andre & Michael and Paul & Lindsay were reasonable and fell appropriately within the Commission’s discretion to impose sanctions proportionate to the severity of the violation; the sanctions also did not violate the Campaign Rules or Election Code. The Judicial Review Board finds that the choices of sanctions were not unfair and that the punishments “fit the crime” per Article IV, Section 1.C of the Campaign Rules.

### VI

#### On the Matter of Additional Early Campaigning Violations

The Judicial Board finds no evidence that any members of the Election Commission had any knowledge of allegations of early campaigning beyond those candidates were sanctioned for.

Per Article V, Section C of the Election Code, all reports of possible campaign violations are to be directed to the Election Commission. While the Judicial Board does have jurisdiction over appeals of the Election Commission’s campaign violation decisions, complaints must first be addressed to the Election Commission. Then appeals must be lodged to the Judicial Board within three school days of the Election Commission’s decision.

Reports of any additional early campaigning violations in the 2023/2024 UA President and Vice President election should have been made to the Election Commission during the period of the election. Imposing sanctions on candidates running for office is not generally within the Judicial Review Board’s jurisdiction.

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That said, if a campaign violation is discovered after the election is over, and if the alleged violation is so severe or egregious that it substantially undermines the integrity of the election, then upon receiving a complaint the Judicial Board may investigate and take action in order to uphold the integrity of the election. This power is derived from the Judicial Board's responsibility for overseeing the Election Commission (UA Constitution Article II, Section C.6.h), since the Election Commission is responsible for the preservation of the integrity of the election (Election Code Article II, Section B.1).

In the case of the 2023/2024 UA President and Vice President election, the Judicial Board finds that the additional early campaigning allegations do not meet that standard of being severe or egregious, and thus finds that we do not have jurisdiction over the matter.

### VII

#### On the Matter of Upholding the UA President/Vice President Election

The Judicial Review Board finds insufficient evidence to suggest that wrongdoing on behalf of the Election Commission created circumstances that unfairly favored Andre & Michael. The Judicial Review Board also finds insufficient evidence to suggest that any actions of the Election Commission undermined the integrity of the election.

Therefore, the Judicial Review Board upholds the results of the 2023 UA President and Vice President election that Andre Hamelberg & Michael Hanson are the elected UA President and Vice President for the 2023/2024 term.

Please contact the UA Judicial Review Board at [ua-judboard@mit.edu](mailto:ua-judboard@mit.edu) if you have any questions or concerns.