BACKGROUND

The Appellants, Mr. Anthony Galo and Ms. Holly Pavlicek (further referred to as “Appellants”) filed a complaint with the Elections Board on February 24, 2016 alleging that Respondents, Mr. Andrew Homann and Ms. Samantha Martinez (further referred to as “Respondents”) committed a violation from the Texas State University Supreme Court, in direct violation of the Student Government Code (“S.G.C.”) (See S.G.C. III §100.4(11)). The Appellants’ grounds for complaint are rooted in the notion that because the Respondents failed to take down their campaign website and because Ms. Martinez failed to remove a campaign logo posted as her social media profile picture, campaigning by Mr. Homann and Ms. Martinez continued during a period of suspension which was a consequence of the Supreme Court Hearing on Friday, January 19, 2016. The Homman/Martinez campaign suspension commenced Monday, February 22, 2016 at 8 A.M. and was set to expire on Wednesday February 24,2016 at 8 A.M.

In response to the complaints filed against the Respondents, the Respondent party claims that because they were told to cease all campaigning but not explicitly told by the Supreme Court to take down their campaign website or the profile photo in question (as its original posting date was before the party entered their term of campaigning suspension), that they did not violate the terms
of their campaigning suspension by campaigning or distributing campaign materials as stated in S.G.C. III §100.4(11) or S.G.C. III §100.4(12).

**DISCUSSION**

The charge before The Election Board was to rule on the following questions:

1.) Did [Respondents] violate S.G.C. III §100.4(11), which defines CAMPAIGN and CAMPAIGNING as, “statements, literature, activities, or deliberate uses or distribution of materials of any kind including electronic or virtual, that have or are intended to have the effect of soliciting votes, support, or interest for a candidate or elective office. Campaigning must only occur during the official campaign period as defined in this code.”

2.) Did [Respondents] violate S.G.C. III §100.4(12), which defines CAMPAIGN MATERIALS as, “All materials and literature of any kind, including electronic or virtual, concerning any candidate that has or are intended to have the effect of soliciting votes, support, or interest for a candidate or elective office.”

3.) If [Respondents] are found to have violated S.G.C. III §100.4(11) or S.G.C. III §100.4(12), what punishment is appropriate for each infraction of the code in conjunction to the time of the election period?

The Election Board asserts that although the Respondents claim that their failure to remove campaign material from the public’s access was not intentionally to solicit campaign attention during the period of their mandated suspension, Ms. Martinez’s social media account and the party’s open campaign website during this time frame do in fact violate the terms of their campaign suspension. The Election Board turns to S.G.C. III §100.3(7) which states that, “Ignorance of the Election Code shall not be an acceptable defense in response to any offence committed in any election under this code; either by candidates themselves, their agents or workers, or the election regulatory bodies, as defined by this code.”

Instead of contacting the Election Board for direct clarification of what constituted “campaigning” or “campaign materials” during a period of suspension, the Respondents’ continued forward with their actions, believing that neither their published campaign website, or Ms. Martinez’s social media profile photo were violating their suspension of campaigning (as any posts made by Ms. Martinez during this period were not affiliated with direct support of with the Homman/Martinez campaign).

As stated in S.G.C. III §100.4(12), campaign materials are defined as, “All materials and literature of any kind, including electronic or virtual, concerning any candidate that has or are intended to have the effects of soliciting votes, support, or interest for a candidate or elective office.” Although the Homman/Martinez campaign website did not attract any viewing attention during the party’s campaign suspension, the website was purposely created with the intent to advertise the campaign to members of the student body, and therefore was intended to have the effect of soliciting votes. The Election Board asserts that because Ms. Martinez failed to remove campaign materials from her social media account during the Homman/Martinez campaign suspension, the campaign material remained accessible to the public and the image had the effect of soliciting votes, support, or interest for a candidate or elective office. For the aforementioned reasons, the Election Board finds both presented forms of evidence of the Respondents’ actions in violation with the mandated Homman/Martinez campaign suspension.
S.G.C. III §101.1(18), states that, “Questions of interpretation must be submitted to the Board via formal written memorandum to the Election Board Chair.” Because the Respondents failed to provide a written memorandum to the Election Board Chair, these issues were not able to be clarified or addressed within the authorized campaign period. It is established that the Election Code clearly labels campaign materials as any kind of materials including electronic or virtual, that have or are intended to have the effect of soliciting votes. It is the Election Board’s opinion that “all materials and literature of any kind” does in fact include any form of social media in which an individual running for an elected Student Government position is connected to their respective Student Government campaign at anytime during the authorized campaign period. It is also the opinion of the Election Board that the evidence in question must be considered to be campaign material distributed during a period of campaign suspension regardless of the Respondents’ intent to solicit voters, support, or interest for a candidate or elective office.

The Election Board must adhere to the S.C.G exactly as it is written; regardless of the Respondents’ claims of intent behind an action. The Election Board finds that, in accordance with the S.C.G, the Respondents have violated their campaign suspension mandated by the Student Government Supreme Court on Friday, January 19, 2016. The Election Board views this violation as the party’s failure to comply with an order of the board. As stated in S.G.C. III §101.2(7), “Any person who fails to comply with an order or advisory opinion of the Board shall immediately be disqualified from candidacy.”

**CONSEQUENCE**

The following judgment is issued as we find the Respondent’s guilty of violating the S.G.C. as it stands:

1.) Two separate pieces of evidence were brought to our attention. This evidence was provided to the Election Board in the form of a screenshot in which Ms. Martinez’s profile photo constituted campaign material. This Violation of campaign suspension will result in one (1) Class A violation.

2.) The Election Board finds that the failure of the Respondents to remove their campaign website during the period of their suspension, constitutes campaigning as per S.G.C III §100.4(11). This violation will result in one (1) Class A violation.

3.) The Election Board finds that according to S.G.C. III §101.2(7), the Homman/Martinez campaign has failed to comply to an order of the Board, which results in the immediate disqualification of the members of the Homman/Martinez executive alliance. The party’s failure to comply with a mandated suspension will result in one (1) Class A violation.

4.) In the future, The Election Board demands that all campaign parties cease and desist from campaigning and/or seeking the solicitation of votes on any and all platforms of social media, regardless of a candidate’s intentions, during the time of a campaign suspension.
CONCLUSION

For the foregoing reasons, The Election Board Committee find the Respondents guilty of violating the S.G.C. and issue the consequences as is allowed by the S.G.C.

It is so ordered

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Chelsea Thompson, Election Board Chair

Before Election Board Chair, Chelsea Thompson and Decided upon by Election Board Committee.

Heard- February 25, 2016 Decided- February 26, 2016