

In Case #2017-Mock Trial, the Court has come to three decisions.

The Court determined that Team ASUNM, the appellant in this case, violated Election Code Art. IX §3(c)(3) of the Election Code – “No candidate for the office of Senator will exceed two hundred and fifty dollars (\$250).” In Section 2 of the same Article, Sub-Section A defines campaign materials and includes both Sub-Sub-Section 3 – “Handbills, flyers, posters, placards, buttons, stickers, banners, chalking, shirts, paid websites, social networking sites, or the like” and Sub-Sub-Section 4 – “Any items and/or services reasonably perceived as being used with the purpose of soliciting votes for an ASUNM elected office by any person or organization that aids a candidate or group of candidates.” The appellant ordered ten-thousand (10,000) flyers with the group name Team ASUNM and the faces and ballot numbers of all ten candidates. Because The appellant explained that they purchased 10,000 flyers to receive a lower rate and could not justify a non-campaign related way they intended to use the flyers, the Court determines that these fall under the definition of campaign materials. This means that the total expenditures of each Team ASUNM candidate is \$350 – putting them in violation of Election Code Art. IX §3(c)(3) of the Election Code.

The Court determined that the Appellee is, at least partially, at fault for the Appellant’s violation. The Appellee informed all candidates, including the Appellants, that it was an acceptable practice to spend more than the allotted limits in the Law Book to get a lower rate on campaign materials, as long as that difference is noted on the financial form and the excess materials are turned into the Elections Commission. The Court deems that this advice to candidates is incorrect. While it is the responsibility of candidates to check the Law Book, the Appellee informed candidates that they could break the Election Code and are responsible for spreading false information.

The Court upheld the sanction of \$150 per candidate on Team ASUNM candidates and removed the sanction that would have prohibited the candidates from assuming office. While the Appellee gave candidates incorrect information, the candidates did not follow the directions the Appellee *did* give and they did not review the Law Book regulations. The Law Book clearly says that the Elections Commission can issue these fines in Article IX, Section 4 of the Elections Code. While that section also says that excesses greater than 25% can result in further disciplinary actions, the Court felt that a \$150 fine was enough to deter candidates in the future from overspending. Because each candidate originally only spent \$35 on campaign materials, their fine is 400% of their original investment. From a restorative justice standpoint, the Court felt that issuing an additional sanction on top of a 400% fine was not necessary. Candidates have ten (10) days from the date of this decision to pay their fines. If fines are not paid in full by the tenth day, candidates from Team ASUNM will not be permitted to assume office.

It is so ordered.

On Behalf of the Court,



Sara Collins  
 Student Court Chief Justice, 2017-2018

JUSTICE CARRILLO, with whom JUSTICE MCELROY joins, concurring in part and concurring in the judgment in Case #2017-Mock Trial.

Appellant clearly violated Election Code Art. IX §3(C)(3) by spending an amount greater than the Code allows on campaign materials. It is difficult to imagine that the extra \$100 spent on flyers listing the candidates' names could be reasonably perceived as being used for any other purpose than soliciting votes. Appellant was unable to justify the additional flyers in hearing. Additionally, Appellant possessed every flyer purchased with the full \$350 until after the election without notifying any appropriate supervising body or officer. This is troubling. Had, for example, the flyers been displayed during the campaign then removed after the election, Appellant could return the extra flyers claiming that they had never been used. Appellee, as the supervising body, would have no tangible method of confirming this. The Court, rightly, holds against Appellant and upholds the maximum fine per Election Code Art. IX §4(A)(1)(b-d).

The Court also, rightly, removes imposed sanctions beyond this fine. Appellant did not perform any grand act of sabotage to unrightfully win the election, nor even is it clearly apparent that they *willingly* acted in violation of Appellee's instructions. Election Commission procedures automatically apply a fine after an over-expenditure, but their authority to impose other disciplinary actions under Art. IX §4(A)(1)(c) must be based on a reasoned judgment that the over-expenditures were "of a deliberate or intentional nature." Because there is no clear evidence to support that provision, and because of the reasons listed in the ruling, the Court is correct to remove additional sanctions.

Where the Court errs is in its determination that Appellee gave incorrect information to Appellant. Election Code Art. IX §3 provides that "[t]he Elections Commission will determine the format of all forms to be used to report campaign expenditures," and in Sub-Section A that "campaign materials ... will be assessed at a fair market value by the Elections Commission." The ASUNM Constitution Art. VII §5(A) empowers Appellee to "preside over all election procedures [and] enforce election regulations." Because Appellee thus decides what does and does not qualify as a campaign expenditure, they are fully within their jurisdiction to allow for campaign spending that exceeds the \$250, as long as the *reported* expenditures (as instructed by Appellee) fall under this limit. In other words, Appellee is free to inform candidates that they may spend a larger amount for a group discount.

Of course, this is not an unlimited power. The Elections Commission is bound, per Elections Code Art. I §3(G), to "[promote] public confidence in the integrity and impartiality of the election process." To inform candidates that they could spend more money as part of a bulk discount, without restriction, would indeed violate the law. However, Appellee took steps to ensure the integrity of this process by instructing Appellant that the difference must be noted on the financial form and the excess materials must be turned in. Article I was not violated here, and thus Appellee had full jurisdiction to decide what did and did not constitute campaign expenditures. Under current law, Appellant is fully at fault for their violation.



Associate Justice Ian Carrillo



Associate Justice Kristin McElroy