

Opinion of the Court

**THE JUDICIAL BRANCH OF THE STUDENT
GOVERNMENT ASSOCIATION OF THE
UNIVERSITY OF TENNESSEE-KNOXVILLE**

Case No. 2017-6

ELECTION COMMISSIONER, PLAINTIFF v. BANKS-MARSH CAMPAIGN,
DEFENDANTS

Decided on 10 April 2017

I

This case arises out of the grievance submitted by the plaintiff, the Election Commissioner, regarding the Banks-Marsh campaign submitting an incorrect Campaign Value Report (CVR) passed the 5:00pm deadline on Friday April 7th, 2017. The Defendants submitted Appendix G and Appendix H at 4:59pm, however upon further review, Election Commission was unable to verify the documents because the Defendants provided no verifying documents (including, but not limited to, receipts, invoices, or bank statements) in the submission. At 5:02pm the Defendants notified a member of the Election Commission, Sherilyn Hammonds, that there had been technical difficulty in retrieving the bank statements to verify the costs listed on the submitted Appendices. At 5:35pm the Defendants resolved the technical difficulty and submitted additional verifying documents including receipts, emails, and bank statements in order to complete their CVR. Upon further review, Election Commission noted the following discrepancies between the submitted Appendix G and Appendix H, and the additional verifying documents submitted by the Banks-Marsh Campaign:

1. Item one (1) listed on appendix H lists donations from campaign members, but do not list the individual donors who contributed. Further documentation submitted does not clearly demonstrate the source of these donations. Each individual donor should be listed on Appendix H with the amount that was contributed to the Banks-Marsh campaign.
2. An additional Appendix H was submitted, but only include expenditures for Facebook advertisements that should be listed on Appendix G.
3. The payments for transaction items two (2) and five (5) listed on Appendix G are the incorrect amounts compared to the receipts submitted.
4. The receipts for transaction items three (3) and six (6) listed on Appendix G were not submitted, however, these transactions are included on the bank statements submitted.

5. The bank statement document lists a transaction of \$158.92 on April 3, 2017 for 4imprint, a company that sells personalized promotional products. This transaction was made on the same day as the order for campaign buttons but was not included on appendix G. It is not clear what was ordered, but if it was a campaign expense, it should have been included on appendix G.

II

After further review, the Court finds that the Banks-Marsh Campaign committed a clear violation of Section F, Subsection VII(E)(3) of the Election Packet, which states: “All independent candidates and political parties shall record all expenditures at the price paid for that good or service.” due to the above discrepancies listed by the Plaintiffs as 1, 2 3, and 4. The Court did not consider discrepancy number 5 as a violation of the Election Packet because further evidence presented by the Defendants indicated that the transaction in question had been cancelled and therefore did not need to be included on the CVR.

In addition, the Court finds that the Defendants committed a clear violation of Section F, Subsection VII(C) which states: “Failure by a political party and/or candidate, whether affiliated with a political party or not, to submit a complete Campaign Value Report (CVR) by the specified deadlines or failure to adhere to the spending limits will result in a violation of the Election Rules and Procedures.” by failing to submit a completed CVR by the 5:00pm deadline on Friday April 7, 2017.

III

The Court does not find this to be a violation of the portion of Section F, Subsection VII(C) however, that states: “Intentionally falsifying the nature of a donation may result in immediate disqualification from the campaign.” It is clear that the discrepancies involved in this case were due to simple human error facilitated by a last-minute time crunch and technical errors outside of the Defendant's control and not at all malicious in their intent. Had the Banks-Marsh campaign not faced these technical errors, it is reasonable to believe that they would have been able to correctly submit their CVR by the 5:00pm deadline on Friday April 7th, 2017 without discrepancies. Additionally, the Court considers the fact that the true amounts for the discrepancies listed on the CVR are less than what was initially reported, to be evidence that the Defendants in no way intentionally falsified any of the discrepancies in question.

IV

In determining the sentencing for the violation of Section F, Subsection VII(E)(3), the court uses Judicial Case *2017-7* as the precedent for determining the appropriate sanction for

non-malicious, minor discrepancies within a CVR to be a one-hour campaigning penalty. This means that the Defendants are not eligible to set up tabling or hand out any campaign materials on campus during this delay.

In determining the sentencing for the violation of Section F, Subsection VII(C), the Court intends to establish a precedent with this case. As a punishment for submitted CVR forms past the specified deadline, The Defendants will be sanctioned to an automatic one-hour delay, and an additional hour delay for each hour that they are late past the first hour. For example, if the deadline is set at 5:00pm and a campaign submitted their CVR at 5:35pm, they will only be sanctioned to a one-hour delay. Further, if the campaign failed to submit their CVR by the aforementioned deadline and submit it at 6:01pm, the campaign would be subject to a two-hour delay. By setting this precedent, the court hopes to deter any campaigns from submitting a CVR form late as campaign finances and spending play a key role in maintaining the integrity and equity within the SGA elections.

* * *

THEREFORE, the court rules that the defendant, the Banks-Marsh campaign, acted in violation of the Election Packet by submitting an incorrect Campaign Valuation Report past the 5:00pm deadline on Friday April 7th, 2017. The court hereby orders the Banks-Marsh campaign to submit an updated CVR to the Election Commission by 5pm on Tuesday, April 11th, 2017. Additionally, the Banks-Marsh campaign may not begin setting up for tabling anywhere on campus or handing out campaign material on Tuesday, April 11th, 2017 until 9am EST.

It is so ordered.

THOMAS and WRIGHT delivered the opinion of the court. HOWELL (C.J.), DARBY, GORE, and MORGAN joined.