

## COMPLAINT 22-01

**Petitioner(s):** Brett Bonnete (He/they)

**Respondent(s):** Joshua Martin, representing For The Students #ChangeUHSGA

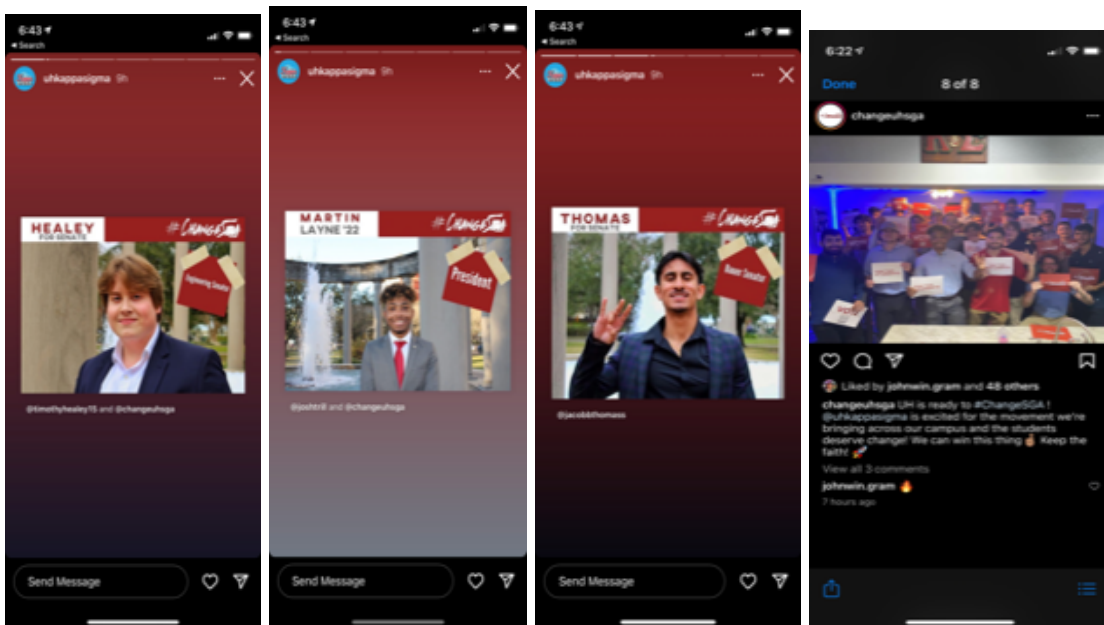
**The following allegations were filed 2/22/22 at 6:50AM:**

Article 4 Section 2, Clause 8: “...Student organizations may not tag any party more than once in their social media posts. Any campaign activities on Student Organization social media outside of a single endorsement post per-platform is prohibited (for instance, if an organization has a Facebook and an Instagram, they may post the same endorsement post on both platforms, but no more)”

**The following evidence was provided by the petitioner:**

*An endorsement was posted multiple times on both the changeuhsga Instagram, as well as the Kappa Sigma Instagram account, whereas a social media post includes social media content, multiple reposts of a story would be considered a violation of this clause.*

*“Activities” may be defined as the sharing of multiple headshot posts from the changeuhsga Instagram to the Kappa Sigma story. “ Any campaign activities on Student Organization social media outside of a single endorsement post per-platform is prohibited.”*



**I reached out to Joshua Martian, President-Elect of For The Students #ChangeUHSGA for a statement of defense to these allegations. The following defense statement was provided by the respondent at 2:06pm:**

The ForTheStudents #Change SGA campaign (hereinafter referred to as “our campaign), did not corroborate or conspire with the UH Kappa Sigma Fraternity to post, share, or redistribute official campaign posts. As we did not direct this organization to make said posts on social media, we cannot be held responsible for their actions.

As the fraternity itself holds no affiliation with the Student Government Association, they would be considered as a “supporter” at best. The fraternity is not an individual person and is not running in the SGA election. The election code's stance on supporters is explicit: By Article 3, Section 3, clause 2 candidates can only be held for the actions of supporters **“if evidence supports that a candidate had actual or constructive knowledge of illicit activities and/or authorized or acquiesced in such activities.”**

If such complaint were to have merit, the precedent set could be dangerous for all candidates running in this election. An independent organization could repost the posts of a party that they are not supporting in an attempt to compile multiple post violations to negatively affect an opposing team. This would be uncontrollable.

Furthermore, The Kappa Sigma Fraternity is a third party student organization. As a subsidiary of a government institution, **the Student Government Association does not have the scope to abridge the freedom of speech provided to independent individuals and organizations under the first amendment.** The petitioners' aim to limit the amount of posts an organization can share is a violation of such right. This was supported **unanimously** in UH's Supreme Court opinion [No. 2020-0002]. As the court has already declared this very act as a violation of free speech, we view the petitioner's complaint as a bad faith attempt to waste our campaign's, the attorney general's, and all other affiliated party's time.

**Decision [2/22/22 3:50pm]:** Petitioner's complaint **HAS** merit, and this **IS** a violation of the Election Code.

**Conclusion:**

I respect the decision of the court that the clause of the election code is unconstitutional, as they are the final say in regards to matters of the sort. However, I am unable to say this is NOT a violation or that the complaint itself does not have merit. I am required to follow the version of the election code that is publicly available on the SGA website, which despite it being two years later, has not been updated to reflect this. The clause's numbering is different but it includes the

exact wording of the clause the court has deemed outside of the scope of the Student Government's jurisdiction.

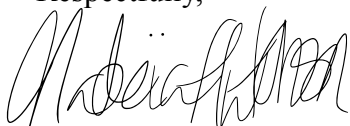
I also acknowledge the respondents' argument that the 56th administration's Supreme Court's ruling is relevant to this complaint due to the situations being the exact same. I am urging the court to **once again affirm the following decision for this election season and to specify if this clause must be removed from the code immediately.**

*"The Court comes to the conclusion that Article 4(2)(9)(a) of the Election Code is unconstitutional. All sanctions placed on candidates and parties in the 2020 election that invoke Article 4(2)(9)(a) of the Election Code are hereby reversed."*<sup>1</sup>

If there are additional examples where the current Election Code's wording has been deemed unconstitutional but not updated, they will be resolved. While I will not hold a party accountable for the errors of previous administrations to update our governing documents. There have been multiple instances where this could have been addressed, most recently a week ago during the candidate seminar when the Election Commission discussed Social Media Prohibitions. I am urging **all parties** to bring these matters up BEFORE a complaint is filed, as I can not guarantee such logic presented in this case will be found in others and will instead expect those arguments to be presented to the court in the form of an appeal.

**Sanction:** Due to ambiguity regarding the constitutionality, a sanction will not be provided, and will not be added to the parties violation count.

Respectfully,



**Nadiia Hutcherson**

**Attorney General**

**58th Student Government Association**

**Delivered to the Election Commissioner on 2/22/22 at 4:10pm**

This complaint will be shared and made public on SGA website for transparency and archival purposes.

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<sup>1</sup> [https://www.uh.edu/sga/judicial/\\_files/\\_opinions/2020-02.pdf](https://www.uh.edu/sga/judicial/_files/_opinions/2020-02.pdf)