

IN THE CONSTITUTION COURT OF THE ASSOCIATED STUDENTS OF
THE UNIVERSITY OF OREGON

BEN BOWMAN,
Petitioner,

v.

SINJIN CAREY AND KAITLYN LANGE,
Respondents.

ON A PETITION FOR REVIEW

BRIEF OF:
BEN BOWMAN

IN FAVOR OF REMOVING RESPONDENTS FROM THE 2011 ASUO
ELECTIONS

QUESTION PRESENTED FOR REVIEW

Whether Sinjin Carey and Kaitlyn Lange (hereinafter “Respondents”) should be found in violation of ASUO Election Rules.

SPECIFIC CONSTITUTIONAL PROVISION, RULE, POLICY, OR

RESOLUTION RELEVANT TO THE CONTROVERSY

ASUO Constitution §11.2: *“The Constitution Court shall have supreme and final authority on all questions of interpretation of this Constitution and any rules promulgated under it, including elections rules and complaints.”*

ASUO Constitution §11.5: *“Complaints arising under the ASUO Elections Rules may be delegated to a Hearings Officer for a ruling. Such a ruling is final unless overturned by the Constitution Court. A Hearings Officer sitting as a judge of election rule complaints may be delegated the authority to impose special sanctions, including but not limited to denial of accession to office or the ballot, payment of any cost incurred in handling the complaint, performance of specific duties for the Elections Board or revocation of any rights arising out of status as an ASUO Program or Recognized Group.”*

ASUO Constitution §13.1: *“The ASUO Elections shall be conducted in a manner consistent with the best interests of the student body. The elections shall be conducted in a fair, orderly and impartial manner, and the*

educational atmosphere of the University shall not be compromised, by any member of the ASUO involved in the electoral process.”

ASUO Constitution §13.5: *“...The Elections Board shall be responsible for promulgation of election rules and procedures, and for the overall direction of the elections....”*

ASUO Election Rule §3.3: *“All candidates must agree to abide by the ASUO Constitution and these rules in order to file as a registered candidate with the ASUO Elections Board...”*

ASUO Election Rule §5.1: *“Candidates, tickets, campaign committees and affiliated individuals shall be held responsible for all election-related activities explicitly or implicitly authorized by the campaign.”*

ASUO Election Rule §6.1: *“Minor violations shall include but are not limited to any violation under §5 regarding poster size, poster placement, and number of posters on kiosks on or in buildings, classrooms or vehicles.”*

ASUO Election Rule §6.2: *“Major Violations shall include, but are not limited to, any violation under §3 regarding campaign reporting.”*

ASUO Election Rule §6.3: *“Serious Violations shall include, but are not limited to engaging in two (2) or more major or minor violations; failure to correct a minor violation and comply with rulings of the Elections Board; and submitting false or incomplete information on any official forms required by the ASUO Elections Board, including but not limited to financial disclosure forms.”*

ASUO Election Rule §6.3(a): *“Consequences may include removal from the election ballot until compliance is achieved.”*

ASUO Election Rule §6.4(b): *“The Constitution Court retains appellate jurisdiction over all matters arising under the ASUO Election Rules. Moreover, the Constitution Court may entertain complaints that implicate the immediate removal of candidate(s) and ballot measures. Upon receipt of such complaints, the Elections Board must immediately forward all materials to the Constitution Court.”*

ASUO Election Rule §9.1: *“In order to ensure fair and equal access to University facilities and resources for proponents of all views during an election or ballot measure, no elector shall use, for any purpose relating to such election or ballot measure, any University facility or resource to which other electors do not have access.”*

ASUO Election Rule Definition 1.1: *“For purposes of this division, “electors” are defined as all students at the University of Oregon who have paid the current term student incidental fee.”*

Note: For the purposes of this brief, ASUO Constitution Court Rules will be referred to as “Court Rule(s),” and ASUO Election Rules will be referred to as “Election Rule(s).”

BRIEF STATEMENT OF FACTS GIVING RISE TO THE COMPLAINT

A.

On Monday, March 28, 2011, Melissa Abel, President of the Panhellenic Council, sent an email to 27 recipients.¹ Ms. Abel sent this email from the account associated with “phcpres@uoregon.edu.”

B.

Ms. Abel is currently the President of the Panhellenic Council, a ASUO Program registered pursuant to ASUO Program Rule 06.5. Verification of Ms. Abel’s position within the Panhellenic Council can be found on the University of Oregon Greek Life website.²

C.

¹ Appendix A

² Appendix B

Ms. Abel is also an “elector,” as defined in Election Rule Definition 1.1. Ms. Abel’s status as an incidental fee-paying student can be confirmed with the University of Oregon Registrar, or with the University of Oregon directory.³

D.

In the email, Ms. Abel solicited the support of the presidents of other fraternities and sororities recognized by the University of Oregon Greek Life Office. Ms. Abel, in multiple places, solicits support in the ASUO Primary Election for Respondents. For example, Ms. Abel says, “Sinjin and Kaitlyn (who are running for ASUO President and VP, respectively) know many of you, and they, believing in the leadership potential of our community, have loaded their slate with 12 candidates from 12 different chapters.” She also says, “Meanwhile, we feel comfortable voicing our support for Sinjin and Kaitlyn and their slate because they have continually reached out to IFC and PHC as members of ASUO over the past few years.” Ms. Abel additionally asks the message recipients to lend their name to a letter to the editor that would appear in the Oregon Daily Emerald (ODE). Ms. Abel writes, “We believe they are right for the job, but until all of IFC and PHC can meet we cannot “endorse” a group. You however, as presidents of chapters can sign your name to the attached letter, as presidents did last year, and we

³ Appendix C

encourage you to do so if you are interested.” That letter did appear in the Tuesday, March 29, 2011 edition of the ODE⁴.

E.

The email also contained some language that indicated that it was sent as a result of Respondents asking for such an email to be sent. Specifically, the email states, “Sinjin and Kaitlyn wanted you all to have their personal information. Sinjin Carey's number is 720-254-3056 and Kaitlyn Lang's is 971-230-4236.” By stating that Respondents “wanted you all to have their personal information,” Ms. Abel indicates that Respondents gave approval of their phone numbers being included in this message. By giving approval, Respondents were aware that such an email was being drafted and sent to the recipients, and requested or authorized such a transmittal.

F.

Because Respondents approved of their phone numbers being included in an email message, and were aware of and authorized a message to be sent out to the recipients, Respondents therefore are held responsible for Ms. Abel’s action, pursuant to Election Rule §5.1.

G.

Pursuant to Election Rule §9.1, “no elector shall use, for any purpose relating to such election or ballot measure, any University facility or resource to which other electors do not have access.” Because Ms. Abel sent the email in

⁴ Appendix D

question from an email address affiliated with the Panhellenic Council and the fraternity and sorority community, it is not a resource to which all electors have access. Similarly, Ms. Abel sent the email to a list of presidents of fraternities and sororities, a list that is not a resource to which other electors have access. Furthermore, Ms. Abel sent the email from an account solely reserved for the President of the Panhellenic Council. This email account is presumably to be used for coordinated of Panhellenic Council events, membership, philanthropy, and communication and compliance with the ASUO. However, this email account is a resource to which other electors do not have access.

H.

Pursuant to Election Rule §3.3, all candidates, including Respondents, must abide by the rules set forth by the ASUO Elections Board. This would include complying with Election Rules §§5.1 and 9.1. As a result of the activities as described above, Respondents are in violation of Election Rules §§3.3, 5.1, and 9.1.

REMEDY REQUESTED

A.

Court Rule §10.1.1.6 states that a specific relief sought from the Court must be included in a completed Petition for Review. However, Court Rule §10.1.1.6 does not include any examples of possible remedies or relief that the

Court may impose, nor should it. In the interest of student autonomy, the members of the Court should be free to hand down any sanction within its power. However, for the purposes of “describing the specific relief sought from the Court,” Petitioner will use the remedies as outlined in the ASUO Election Rules as a guideline. Nonetheless, Petitioner is aware that the Court may impose whatever sanction or sanctions it wishes, or none at all.

B.

Normally, when violations of Election Rules occur, aggrieved electors or members of the Association file a complaint directly with the ASUO Elections Board. However, Elections Rule §6.4(b) states that the Court may entertain complaints that implicate the immediate removal of candidate(s) or ballot measures. Petitioner does believe the activities that have taken place warrant removal from the ballot, and that reasoning is explained below.

C.

Election Rule §6 outlines the four different levels of severity for violations of Election Rules. In this case, Respondents committed three separate violations.

D.

First, Respondents committed a “minor violation,” as defined by Election Rule §6.1. In this case, Respondents violated Election Rule §5.1, as noted above. Election Rule §6.1 outlines that a minor violation is typically used for violations regarding poster size, but for the purposes of this complaint,

Petitioner will consider the violation of Election Rule §5.1 a minor violation nonetheless.

E.

Second, Respondents committed a “major violation,” as defined by Election Rule §6.2. In this case, Respondents violated Election Rule §3.3, as noted above.

F.

Third, Respondents committed a “serious violation,” as defined by Election Rule §6.3. In this case, Respondents committed one minor violation and one major violation, which amounts to a serious violation.

G.

The Court should not impose all three remedies, as outlined by Election Rules §§6.1(a), 6.2(a), and 6.3(a), but instead, impose solely the strictest penalty. Therefore, the Court should impose the remedy called for in Election Rule §6.3(a), which would remove Respondents from the ballot, for a time to be determined by the Court.

H.

Election Rule §6.4(b) states that the Court “may entertain complaints that implicate the immediate removal of candidate(s) and ballot measures.” Because the remedy requested above calls for removing Respondents from the ballot, this complaint is being filed directly with the Court.

EXIGENT CIRCUMSTANCES

Pursuant to Court Rule §10.1.1.7, Petitioner asks the Court to act with dispatch. The 2011 ASUO Primary Election is currently underway. Petitioner believes that Respondents received an unfair advantage by authorizing the use of resources not available to the entire student body. Because this advantage could affect the outcome of the election, the Court should hear this complaint as soon as possible. The Court itself acknowledges the exigent circumstances relating to elections, at it provides elections as an example of such a circumstance in Court Rule §10.2.1.1.

COMBINED CERTIFICATIONS

1) Proof of Service -- I hereby certify that on March 30, 2011, I served five copies of the Brief of Ben Bowman, in favor of removing Respondents from the 2011 ASUO Elections, on this Court by hand, as well as by email to concourt@uoregon.edu. On the same day, I served two copies of the same brief on Respondents by hand.

2) Certification of Conformity -- I hereby certify that I have read the ASUO Constitution Court Rules and Procedures, and that this brief comports with said Rules.

3) Identical Compliance of Briefs -- I hereby certify that the text of the electronic brief, which was submitted to this Court, is identical to the paper copies that were served on this Court and on Respondents.

4) Standing as a Member -- I hereby certify that I am a member of the Associated Students of the University of Oregon.

Ben Bowman

Date

APPENDIX A

Subject: ASUO Elections and ODE Letter
Date: Mon, 28 Mar 2011 00:27:58 -0700
From: Melissa Abel <phcpres@uoregon.edu>
To: <gurewitz@uoregon.edu>, <kissiah@uoregon.edu>, <evanh@uoregon.edu>, <brianp@uoregon.edu>, <bwickes@uoregon.edu>, <heinkel@uoregon.edu>, <ibailey@uoregon.edu>, <russell2@uoregon.edu>, <agorton@uoregon.edu>, <mauritz@uoregon.edu>, <gawain@uoregon.edu>, <hoenig@uoregon.edu>, <dsheldon@uoregon.edu>, Will Sherratt <sherratt@uoregon.edu>, <alphachi_prez@yahoo.com>, <alphaphitaupresident@gmail.com>, <burkland@uoregon.edu>, <jablonsk@uoregon.edu>, <esmith4@uoregon.edu>, <leder@uoregon.edu>, <bayley@uoregon.edu>, <lhinman@uoregon.edu>, <lekas@uoregon.edu>, <hirsh@uoregon.edu>, Logan Smith <logans@uoregon.edu>
Cc: Annie Carlson <carlson2@uoregon.edu>, Cody Catherall <ifcpres@uoregon.edu>

Dear Presidents,

Welcome back! We hope you had a wonderful break and are excited about what will be a very busy (as usual) spring term. A big event that will be beginning right away is ASUO elections. Our main hope is that you will all encourage your chapters to get involved with the elections, become educated about the candidates and major issues going on and most importantly, VOTE.

This year we have an opportunity to throw our support behind an ASUO campaign that really understands our interests as leaders in the Fraternity and Sorority community. In the past Greek life has been pretty apathetic about elections, but in recent years we have found that our voice is important to the process.

Sinjin and Kaitlyn (who are running for ASUO President and VP, respectively) know many of you, and they, believing in the leadership potential of our community, have loaded their slate with 12 candidates from 12 different chapters. Additionally, as executives they will be in a position to give more of our young members opportunities in the ASUO. They want to add a Greek member to the executive staff who will act as a liaison between our community and the ASUO. This can help bring more student

groups into our events, and help expose us to more of the rest of campus.

They support protecting football tickets (while Ben, who they are running against, advocated cutting 300 to pay for OSPIRG). And they believe there should be more traditions on campus supported by the ASUO such as a "spring fling" and ASUO sponsored tailgater for all students. These are things our members will use, potentially even more than the general student.

Their slate is made up of the average student, and they are not ASUO insiders just shuffling money around to their own groups. They have new fresh ideas. But more than this they have sought our support and invested heavily in our community. We believe they are right for the job, but until all of IFC and PHC can meet we cannot "endorse" a group. You however, as presidents of chapters can sign your name to the attached letter, as presidents did last year, and we encourage you to do so if you are interested.

If you agree to the letter, please text Brian Wickes the Delta Tau Delta president at [415-233-0326](tel:415-233-0326) or Laura Hinman the Kappa Kappa Gamma president at [949-292-9746](tel:949-292-9746). Or feel free to ask them or us any questions. (If you would like to sign the letter please contact them ASAP as they need to organize the letter with the ODE early this week).

Sinjin and Kaitlyn wanted you all to have their personal information. Sinjin Carey's number is [720-254-3056](tel:720-254-3056), and Kaitlyn Lang's is [971-230-4236](tel:971-230-4236).

We both feel that everyone should educate themselves and vote for whichever candidate they feel would best support our student body. Meanwhile, we feel comfortable voicing our support for Sinjin and Kaitlyn and their slate because they have continually reached out to IFC and PHC as members of ASUO over the past few years. Sinjin especially has always reached out to both of us during his past experiences on ASUO to make sure that we are involved in important issues and that Fraternity and Sorority life has a voice as the largest student group on campus.

We feel that Sinjin and Kaitlyn's slate will benefit our community, while none of the other executive candidates have contacted us or made any efforts in the past as ASUO officers to reach out to or recognize Fraternity and Sorority Life. We know that elections can be tense and confusing, so please contact us or any of the people listed above with any questions. Also, if you do not feel comfortable signing the letter or have differing opinions, we completely understand and support that as well!

Again, please contact us with any questions. We are excited for the upcoming term and for the amount of Fraternity and Sorority members that are involved in the ASUO and the election! Please encourage your members to get involved, as the more members we have involved on campus the more we will improve our image and relations in the greater community and the more our voice will be heard when it comes to FSL issues.

We have attached the potential ODE letter as well as a list of the Fraternity and Sorority members running for positions, so be sure to check that out.

Thanks everyone!
Melissa and Trevor

-- Melissa Abel
PHC President
Pi Beta Phi, Oregon Alpha
phcpres@uoregon.edu
[\(503\)706-6685](tel:(503)706-6685)

APPENDIX B

<http://greeklife.uoregon.edu/councils/phc>

The screenshot displays the website for Fraternity & Sorority Life. The top navigation bar includes links for COMMUNITY, COUNCILS, FRATERNITIES, SORORITIES, RESOURCES, and CONTACT US. A search bar and a 'Register | Log in' link are also present. The main content area is titled 'Panhellenic Council' and features a sidebar with a 'Back to Councils' link and a list of categories: Community, Councils (with sub-links for Interfraternity Council and Panhellenic Council), Fraternities, Sororities, Resources, and Contact Us. The main text describes the Panhellenic Council (PHC) as composed of nine traditionally social sororities and one local sorority. It provides links to the PHC Constitution, PHC Bylaws, PHC Officer Descriptions, PHC Recruitment Bylaws, and PHC Membership Staff Job Descriptions. Below this, the 'Presidents' Council' section describes its composition and provides a link to the calendar. A list of PHC Presidents' Council Minutes is shown for January 19, 2011; February 2, 2011 (cancelled); February 16, 2011; and March 2, 2011. The 'Executive Council' section describes its role and provides a link to the President, Melissa Abel. A final paragraph encourages contact with Melissa Abel for presentations, leadership positions, or general questions about PHC.

FRATERNITY & SORORITY LIFE

COMMUNITY COUNCILS FRATERNITIES SORORITIES RESOURCES CONTACT US

Register | Log in

Panhellenic Council

[Back to Councils](#)

Community

Councils

- [Interfraternity Council](#)
- [Panhellenic Council](#)

Fraternities

Sororities

Resources

Contact Us

Panhellenic Council

The Panhellenic Council (PHC) is composed of nine traditionally social sororities and one local sorority.

[PHC Constitution](#)

[PHC Bylaws](#)

[PHC Officer Descriptions](#)

[PHC Recruitment Bylaws](#)

[PHC Membership Staff Job Descriptions](#)

Presidents' Council

The Presidents' Council is composed of the presidents from each PHC sorority. Each week the council meets to discuss relevant issues, important dates, and other applicable topics. For the time and location of these meetings, please see our [calendar](#).

PHC Presidents' Council Minutes

- ▶ [January 19, 2011](#)
- ▶ [February 2, 2011 - cancelled](#)
- ▶ [February 16, 2011](#)
- ▶ [March 2, 2011](#)

Executive Council

The PHC Executive Council is composed of eight members from various chapters within PHC. Officers are elected at the end of fall term. Each week the council meets to plan for upcoming events and develop the direction of the sorority community.

President | [Melissa Abel](#)

Contact Melissa if you are interested in presenting at Presidents' Council, would like to run for a leadership position on the executive board, or have general questions about PHC.

APPENDIX C

http://uoregon.edu/findpeople/index.php?uouuid=55242&type=person&search=Abel&name=Melissa%20L%20Abel

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For information about UO departments, use the [UO Department Search](#)

Search for:

Name: **Melissa L. Abel**
Level: Undergraduate
Major: Biology
Phone: (503) 706-6685
Email: abel@uoregon.edu

[Back to results](#)

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APPENDIX D

<http://www.dailyemerald.com/opinion/letter-carey-and-lange-represent-interests-of-all-students-1.2128074>

Letter: Carey and Lange represent interests of all students - Oregon Daily Emerald - Opinion

3/29/11 11:35 PM

ARCHIVES PHOTO REPRINTS CLASSIFIEDS ADVERTISING ALUMNI CONTACT US ABOUT US OPENINGS

Letter: Carey and Lange represent interests of all students

Letter to the editor

Kelsey Reddicks, Grant Gurewitz, Maggie Dieringer and 15 more [fraternity and sorority presidents](#)

Published: Monday, March 28, 2011

Updated: Tuesday, March 29, 2011 00:03

As fraternity and sorority presidents at the University of Oregon, we officially endorse Sinjin Carey, Kaitlyn Lange and Students United as a slate that not only represents the best interests of our Greek community, but the interests of all students at the University. Sinjin and Kaitlyn understand the importance of creating traditions that enhance the lives of the everyday student here at the University. They believe, as we believe, that collaboration between campus organizations is the best way to further our common mission. As presidents, we understand the qualities needed in effective leadership and that the ASUO is better off under the integrity and accountability of Sinjin and Kaitlyn.

As a team, Students United is cut from all across campus, ensuring that all of our voices will be heard. For years the ASUO has failed to reach out to all students and organizations. As presidents representing more than 1,800 students, we need their voice in the ASUO to change this.

The ASUO, in times like these, needs to unite students behind a common cause that we all share. It needs to do more with the same amount of money, while protecting our environment. Sinjin and Kaitlyn understand this. And, as presidents, we share their vision. Join us in supporting Students United, so we can move our campus forward, together.

Alpha Chi Omega - Kelsey Reddicks

Alpha Epsilon Pi - Grant Gurewitz

Alpha Phi - Maggie Dieringer

Chi Omega - Emily Burkland

Chi Psi - Zachary Snyder

Delta Delta Delta - Kelly Jablonski

Delta Gamma - Elizabeth Smith

Delta Sigma Phi - Brian Powell

Delta Tau Delta - Brian Wickes

Kappa Kappa Gamma - Laura Hinman

Lambda Chi Alpha - Ian Bailey

Phi Kappa Psi - AJ Gorton

Pi Beta Phi - Ellen Lekas

Sigma Alpha Epsilon - Alex Mauritz

Sigma Chi - Will Sherratt

Sigma Nu - Logan Smith

Sigma Phi Epsilon - Turner Hoenig

Sigma Pi - Derek Sheldon

opinion@dailyemerald.com