Decision of the Elections Commission
Michael Q. Nguyen vs. Sitara Nayudu, et. al.
Submitted: Tuesday, April 20th, 2010 at 11:11pm

Based on the information submitted, the Elections Commission does not find action against Sitara Nayudu necessary. The complaint alleges that an individual by the name of James Lee, administrator of the Facebook group titled, "Vote of NO-CONFIDENCE to UCI PARKING DIRECTOR: RON FLEMING!!!!", sent out a message to all 4,000 members of the group to endorse specific candidates for the 2010 ASUCI Spring Elections. The message stated that these candidates were actively fighting against parking and had plans to handle future parking and budget issues. The candidates endorsed by James Lee were accused of being in violation of Article XX, Section B, Clause 3, Section B, Clause 6, and Section A, Clause 4 of the ASUCI Elections Code.

Article XX, Section B, Clause 3 of the ASUCI Elections Code states that "Failure by parties or individuals who endorse/support a candidate to abide by the Elections Code" are grounds for censure or disqualification of a candidate. James Lee is accused of violating this clause by disregarding Article XX, Section B, Clause 6 of the ASUCI Elections Code, which orders candidates "to comply with the UCI Principles of Community."

The complainant cited two sections of the UCI Principles in Community in which they believe James Lee has violated. The Elections Commission has considered these allegations ungrounded. We do not believe that substantial evidence has been presented to prove that Mr. Lee did not adhere to the University's non-discrimination policy. We also do not believe that there is enough evidence to prove that Mr. Lee made any allegations of physical abuse, or any related behavior that threatened the safety of any individuals. According to Appendix C of the UCI Campus Policies, the Nondiscrimination Policy Statement for University of California Publications Regarding Student-Related Matters says that the University does not discriminate "on the basis of race, color, national origin, religion, sex, gender identity, pregnancy, physical or mental disability, medical condition (cancer related or genetic characteristics), ancestry, marital status, age, sexual orientation, citizenship, or service in the uniformed services". This policy covers University programs and activities. Mr. Nguyen has not been able to adequately prove that Mr. Lee discriminated against those he chose not to interview for his endorsement. Also, the Elections Commission believes that by expressing the desire to get Ron Fleming fired does not translate into a threat of violence that puts Mr. Fleming's health and safety in jeopardy.

As an individual, James Lee has the right to express his opinion and endorse candidates. The group, Vote of NO-CONFIDENCE to UCI PARKING DIRECTOR: RON FLEMING!!!!", is not a registered organization with the Dean of Students, so an Endorsement Form is not necessary. The message was sent through Facebook, a medium in which the University Policy is not applicable.

Due to the reasons mentioned in this decision, the Elections Commission has elected to not go forward with an Evidentiary Hearing. There was not enough convincing evidence to go forward with this claim. The Elections Commission has determined that Sitara Nayudu, Logan

Frick, Jun Wang, Toni Rose Reyes, Igor Bosnic, Ari Garnica, James Shen, Johnson Liu and James Lee have been cleared of any wrongdoing.

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John Kim
Elections Commissioner

Complaint submitted as follows:
The following ASUCI Candidates in the 2010 Spring Elections:
President: Sitara Nayudu
VP Admin Affairs: Logan Frick
VP Student Services: Jun Wang
At-Large Representative(s): Toni Rose Reyes, Igor Bosnic, Ari Garnica
Social Science Representative: James Shen
ICS Representative: Johnson Liu

Have received the support of an individual known and named as “James Lee,” who is currently listed as the creator and sole administrator of a Facebook group titled, “Vote of NO-CONFIDENCE to UCI PARKING DIRECTOR: RON FLEMING!!!!”As administrator, Mr. James Lee had invoked the “Message all members” function to send a message to over 4,000 members of this group, knowing that the membership of the group is primarily composed of students registered at the University of California, Irvine who are actively against parking, and in specificity, to UCI Parking Director Ron Fleming. The content of this message sent to 4,000 members of primarily UCI students, all of the candidates mentioned above, by receiving Mr. Lee’s support, are in violation of Article XX, Section B, Clause 3, Article XX, Section B, Clause 6, and Article XX, Section A, Clause 4 of the ASUCI Elections Code.

It is said in Article XX, Section B, Clause 3 of the ASUCI Elections Code, that “The following violations are grounds for censure or disqualification of a candidate, depending on the severity of inappropriate conduct....3. Failure by parties or individuals who endorse/support a candidate to abide by the Elections Code.” and,

It is further said that in Article XX, Section B, Clause 6 of the ASUCI Elections Code, that “The following violations are grounds for censure or disqualification of a candidate, depending on the severity of inappropriate conduct....6. Failure to comply with the UCI Principles of Community.”

It is the responsibility of the candidate(s) to familiarize themselves with the ASUCI Elections Code as per their agreement of compliance by declaring their candidacy online and,

It is explicitly stated in Article XV, Section E, of the ASUCI Elections Code that, "All

candidates shall familiarize themselves with this Elections Code" and,

It has been made clear that the candidate(s) have been given the dutiful responsibility to read the ASUCI Elections Code before his/her Declaration of Candidacy and,

Per Article XV, Section B, of the ASUCI Elections Code, “All candidate(s) are required to attend the mandatory orientation meeting conducted by the Elections Commissioner, at which time the Elections Code and campaigning rules shall be fully reviewed” and,

The ASUCI Elections Code has been given the authority to govern all ASUCI Elections at the University of California, Irvine by the Associated Students through its properly elected representatives, and,By the acknowledgment of candidacy, the candidate explicitly agrees to adhere to the ASUCI Elections Code and the responsibilities contained therein and,

It is stated in Article XX, Section A, Clause 4, of the ASUCI Elections Code, that "The following violations shall result in the immediate disqualification of a candidate...4. Failure to comply with University Policy, which includes...Federal and State Law." and,

As stated in the Associated Students, University of California, Irvine, Constitution under Article II, Section C, that “As do all administrative units, ASUCI shall adhere to the UCI Campus Implementation of UC Policy of equal opportunity and non-discrimination.” and,

As further stated in the University of California, Irvine, Principles of Community as stated in the UCI Implementation of the UC Policies Applying to Campus Activities, Organizations, and Students, paragraph 4, “The university’s non-discrimination policy, in compliance with applicable federal and state law....UCI expects all those affiliated with it to adhere to the letter and the spirit of University nondiscrimination policies and related federal and state laws.”

Mr. James Lee's message, sent to the 4,000 + members, on 2 separate occasions on Sunday, April 11th, 2010, was read as follows:

**“**After spending the last few weeks reviewing rhetoric and talking to many of the candidates. I ask you to support these individuals who are actively against PARKING and will FIGHT FOR US!! These candidates have REALISTIC PLANS to handle parking and budget cut issues!!! (some have info they hope will get Ron Fleming fired!)

You are part of a 4000+ voting block and these people are promising to change UCI and bring it back to the STUDENTS!!

Out of 34 candidates these 8 have shown strong leadership!
President Sitara Nayudu
VP Admin Affairs Logan Frick
VP Student Services Jun Wang
At-Large Representative (you get to pick 3) Toni Rose Reyes Igor Bosnic Ari Garnica
Social Science Representative James Shen
ICS Representative Johnson Liu

Voting starts tomorrow, Monday at 9am. www.elections.uci.edu

Best to you all,
James Lee
ASUCI Spring 2010 Elections
www.elections.uci.edu
Maintained by the Office of Information Technology, UC Irvine.Sponsored by the Associated Students, University of California, Irvine04/09/10**”**

Mr. James Lee has acknowledged in his message that he knows that the members are actively against parking and Ron Fleming through the following clause: “You are part of a 4000+ voting block and these people are promising to change UCI and bring it back to the STUDENTS!!” Furthermore, Mr. James Lee also acknowledges that he did not speak to all 34 ASUCI candidates by stating: “After spending the last few weeks reviewing rhetoric and talking to many of the candidates. I ask you to support these individuals who are actively against PARKING and will FIGHT FOR US!! These candidates have REALISTIC PLANS to handle parking and budget cut issues!!!” After conferring with many other ASUCI elections candidates who were not part of this support list, none were contacted or were provided with the opportunity to be considered for listing.

In addition, Mr. James Lee has mentioned in specificity, that “(some have info they hope will get Ron Fleming fired!)” In accordance with the UCI Principles of Community, “Allegations of physical abuse, threats of violence, or conduct that threatens the health or safety of any person on University property...will be investigated promptly, and where found to exist, appropriate actions will be taken in accordance with University Policy. (See Sections 51.16 and 51.28 of the Policies.)

“...These Principles of Community...are an integral part of the guidelines by which the University Community can successfully conduct its affairs.”

This is an explicit endorsement from Mr. James Lee and in direct disregard for the rules as discussed above.