

Bar Elections Supervision Committee

Video Conference

March 17, 2021

MINUTES

Committee Members Present: Draper (Chair), Bailen, and Greathouse.

Committee Members Absent: DeCarlo (recused) and Cain.

Staff Present: Craghead, Executive Director, Northrup, General Counsel, Weaver, Assistant to the Executive Director.

Chair Draper called the meeting to order at 4:00 p.m. and presided throughout.

Chair Draper welcomed the Committee members and introduced the issues before the Committee for resolution: a formal written complaint filed by a member that (1) another member's ("Member A") advertisement/endorsement communication of a Board of Governor candidate violated ISBA Policy and Procedures on Association Elections paragraph 4.6 (failing to label the advertisement/endorsement communication as "ISBA Campaign Materials") and 4.7 (improperly using Member A's ISBA title in the advertisement/endorsement communication, and that (2) Current Board of Governor Member B violated Election Policy paragraph 4.8 (prohibiting current Board members from endorsing candidates).

Chair Draper referred the Committee to the materials provided to it including the complaint, and a response from Current Board Member C. Chair Draper also provided background information on the history of the Election Policy provisions at issue.

1. Member A Issues

(a) Section 4.6 Issues (labelling)

The Committee engaged in a broad discussion of the complaint, response, and issues with respect to whether Member A violated Section 4.6. The discussion included: a recognition that the advertisement/endorsement communication from Member A did not include any labelling as "ISBA Campaign Materials;" review of the purposes of the labelling requirement as a response to members' complaints about receiving too much ISBA email and as a means to facilitate members' internal email management preferences; and the express language of Election Policy paragraph 4.6 applying it solely to candidates.

Motion made, second, and carried (unanimously) to find no violation of paragraph 4.6 by Member A.

The Committee further requested that staff present this issue without any recommendation to the Special Committee on Election Procedures for possible consideration during the Special Committee's ongoing review of election related matters.

(b) Section 4.7 Issues (use of ISBA titles)

The Committee engaged in a broad discussion of the complaint, response, and issues with respect to whether Member A violated Section 4.7. The discussion included: a recognition that Member A referenced his title as a member of the ISBA Assembly; the express language of paragraph 4.7 that requires the advertising or promotional materials at issue to have been “developed by, or at the specific request of, a candidate;” the absence in the complaint of any allegation or suggestion that the materials at issue were developed or requested by the candidate; consideration of the purposes behind paragraph 4.7 and its limitations.

Notwithstanding the Committee’s belief that the use of ISBA titles in this instance was not a best practice, motion made, second, and carried (unanimously) to find no violation of paragraph 4.7 by Member A.

The Committee further requested that staff present this issue without any recommendation to the Special Committee on Election Procedures for possible consideration during the Special Committee’s ongoing review of election related matters.

2. Current Board Member B Issues

The Committee engaged in a broad discussion of the complaint, response, and issues with respect to whether Current Board Member B violated the prohibition on Board member endorsements (Election Policy 4.8) when Member A, an associate at Current Board Member B’s lawfirm, used the lawfirm’s signature/address block (which in its name prominently reflects Current Board Member B’s name) in his advertisement/endorsement communication concerning a Board of Governor candidate. The discussion included: a recognition that the communication at issue does not include any statements from Current Board Member B; the absence in the complaint of any allegation or suggestion that Member A’s communication was an effort by Current Board Member B to circumvent the prohibition of Election Policy 4.8; the language in Election Policy para. 4.7 that expressly allows the use of a firm’s signature/address block in campaign materials; and the representation from Current Board Member B that he would immediately review this matter with Member A.

Motion made, second, and carried (unanimously) to find no violation of paragraph 4.8 by Current Board Member B.

The Committee further requested that staff present this issue without any recommendation to the Special Committee on Election Procedures for possible consideration during the Special Committee’s ongoing review of election related matters.

There being no other further business, motion made, seconded, and carried to adjourn the meeting.

Respectfully submitted,

Charles J Northrup, General Counsel