TO: ASUA Supreme Court
FROM: Jordan Miller, ASUA Elections Commissioner
DATE: 03/05/06
RE: Rhonda Tubbs Appeal on Second Disqualification

Factual Basis of the Dispute:

On Friday, March 3, 2006, the commission received a complaint against five (5) candidates for poster violations, all of which were on the same bulletin board on the bottom level of the Cesar Chavez Building. The complainant has told the Commission that the complainant had been going to meet a friend who had class in the building when the complainant saw the violation. Because the complainant was familiar with the code and aware that this violation was blatantly against the code, the complainant felt it necessary to notify the Elections Commission.

Without asking which candidates committed the violation, the Elections Commissioner walked over to the Cesar Chavez Building to review the possible complaint (nothing had yet been filed as the complainant had asked the Commissioner to look at it first). The board in question, as seen in the photo taken by the Commission, was completely covered in advertisements, a few of which were the candidates’ posters. While, of course, candidates are allowed to put up posters on bulletin boards, these posters were placed on top of various advertisements. Upon further investigation, it was found that one of the candidate’s posters was actually already covered with advertisements (non-campaign related).

The Commissioner looked for signs of tampering and did not see any. The Commissioner then informed the complainant that if the complainant wanted to file a complaint against these five (5) candidates, the complainant would have to fill out the proper paperwork.

Rhonda G. Tubbs was one of these candidates. The complainant involved has never before officially filed a complaint against Miss Tubbs. Having concerns for the consequences of issuing a violation to Miss Tubbs, the Commissioner asked a commission member who was available to walk over with her to see the violation again and photograph the posters. Commission member Amy Adamcin walked over to the Chavez Building and again reviewed the circumstances of the poster violation. With Miss Adamcin present, the Commissioner photographed the posters and removed them. Later in the day, the Commissioner sent Commission Member Tommy Bruce to the board to review all of the advertisements that had existed underneath the campaign posters to make sure that none of the dates on the materials had passed, in which case the violations would be pardoned. Mr. Bruce examined the advertisements and photographed them and even called the number on the ad that was specifically under Miss Tubbs poster to ask when the ad had been put up. With no answers, the Commission assumed that no one had placed any ads under those of the candidates as that would be illogical, which means that the posters themselves were placed on top of the ads.
The Commissioner met separately with each member of the commission (as they were not all available at once) either in person or via phone and discussed all of the violations (not just that of Miss Tubbs) and also discussed the consequences for Miss Tubbs should a violation be issued. The two commission members who had seen the board agreed that the posters had not been removed from somewhere else and replaced on the board as the posters each had one perfect set of staples, nor was it logical that, had someone been able to make the violation seem real that anyone had malicious reasons to fabricate this violation against these five (5) candidates who, with the exception of Miss Tubbs and her running mate, were not known to be running together.

The Commission examined every possible reference in the code and determined that for a violation of poster placement, a minor violation must be issued. The Commission, after reviewing the evidence, decided to issue a minor violation to each of the five (5) candidates, Rhonda G. Tubbs included.

After issuing the violation in written form via email at 4:14pm on Friday afternoon (it is important to note that the Commission considers email a form of written notification), the Commissioner attempted to get ahold of Miss Tubbs on the phone to notify her of her violation so that the email did not come as a surprise. Another Commission member was present at the time of the attempted phone call, but Miss Tubbs did not answer her phone. The Commissioner left a message for Miss Tubbs to call the Commissioner on her cell phone whenever possible.

Miss Tubbs phoned the Commissioner at approximately 5:45 on Friday evening. No one else was present. The Commissioner explained the violation and that there was no sign of any malicious intent or even possible fabrication. Miss Tubbs then asked the Commissioner if there was “any point” to appeal the violation. The Commissioner replied that in her honest opinion there were no grounds for appeal, but that of course the Commissioner would feel that way or she would not have issued the violation in the first place. Nonetheless, the Commissioner informed Miss Tubbs that if she wanted to appeal, the Chief Justice of the ASUA Supreme Court had already agreed that the process could be done over the weekend in order to issue an opinion before the General Elections.

That evening, Miss Tubbs phoned the Commissioner again to inform her of her intent to appeal. The Commissioner, upon receiving her appeal the following day (Saturday), forwarded the appeal to the commission and requested their opinions on the appeal. The Commissioner also felt that Miss Tubbs had misrepresented their prior conversation in her appeal and informed Miss Tubbs of this.

After speaking with each of the other commission members and conferring with them, the Commissioner decided to uphold the violation. The other commission members agreed that this was the right decision.

None of the other four (4) candidates involved have filed for an appeal on this violation.

Contact Information:
Jordan Miller  
ASUA Elections Commissioner  
jordanm@email.arizona.edu  
602-527-7858  

Rhonda G. Tubbs  
Tubbs22@email.arizona.edu  
480-695-1001  

Becca Rodl  
Elections Assistant  
Beccar08@email.arizona.edu  
621-2782  

Tommy Bruce  
Commission Member  
tbruce@email.arizona.edu  
621-2782  

Amy Adamcin  
Commission Member  
adamcin@email.arizona.edu  
621-2782  

Any of these individuals can be reached or mailed to at the ASUA offices, Bldg 19, Rm 32W of the SUMC, Tucson, AZ, 85721  

Disposition of the Dispute  

As stated earlier, Rhonda Tubbs, as well as four (4) other candidates were issued a minor violation at approximately 4pm on Friday, March 3, 2006 for violating 4-1.05 of the Elections Code which states that no poster shall obstruct any portion of another poster, whether campaign material or not.  

Rationale for the Disposition of the Dispute  

Much of the rationale behind issuing this violation and denying the appeal can be found in the Commissioner’s ruling on the initial appeal of this violation of which the court has received copies. The Elections Code states in 4-1.05 that “no poster shall obstruct any portion of another poster. This includes non-campaign materials.”  

To the best guess of the Commission, one candidate or his or her staff negligently posted a poster on this specific bulletin board that is located on the bottom floor of the Cesar Chavez Building and is covered with advertisements and that other candidates or staff followed suit assuming that if one person did it, it must not be wrong. The commission...
also assumes that the posting of these materials occurred prior to Miss Tubbs' loss of campaigning rights.

Unfortunately, Rhonda G. Tubbs was one of these candidates and while she suffers the same consequence as the other four, a minor violation, she has already been found to have violated the code on a number of other occasions, and pursuant to the violation process spelled out in the code with which the Court is now familiar, she must be disqualified. This is the opinion of the entire commission.