



May 1, 2006

Mr. Gracey,

This letter serves to outline the Judicial Board's decision concerning case number EC06042806, as heard by the Board on April 28, 2006.

The hearing was chaired by me, Emilio Perez.

Based on your hearing request, the Board convened to consider the appropriateness and validity of the Rules and Elections Committee (RNE) Decisions 10 and 11 regarding the 2006 election for Grand Marshal. The hearing request was accepted on the grounds that the Judicial Board is the body responsible for interpreting the Union Constitution as well as administering civil hearings.

Based upon the evidence presented and the testimony of several witnesses, the Board determined the following pertinent facts:

1. The results of the GM election which took place on April 6, 2006 were accurate upon final hand recount.
2. In the 2006 GM election Carlos Perea received 1030 votes to Zack Freeman's 1026 votes resulting in a four (4) vote margin of victory for Carlos Perea.
3. There were six known missing ballots, five of which had sequential serial numbers
4. There were known errors in the process of printing the ballots for the 2006 GM Election which took place on April 6, 2006
5. Several ballots were invalidated by RNE for various reasons resulting in their exclusion from vote count and margin of error calculations.

For posterity it is critical that this Board delineate the reasoning and causes leading to RNE's decision 10 and subsequent decision 11. RNE decision 10 is based upon the fact that 6 ballots were unaccounted for in the 2006 GM election held on April 6, 2006. Being unable to locate the ballots, or ascertain the cause for removal from the known ballot numbers, the RNE committee determined these ballots as valid but undetermined votes; counting them in the margin of error. With the final hand re-count resulting in a 4 vote margin of victory the election was determined to be inconclusive due to the 6 vote margin of error. As a result of the determined inconclusive nature of the election a run-off election was determined to be necessary. To come to this determination it is the

understanding of the Board that RNE would have had to make the following assumptions:

1. RNE was the responsible party in the loss, removal, or accounting error that resulted in the six unaccounted for ballots.
2. All six missing ballots were valid ballots with a valid vote recorded on them.
3. All six missing ballots existed and were delivered to the polling locations to be distributed.

It is the judgment of this Board that the Rules and Elections Committee's Decision 10 was imprudent and incorrect.

Consequently, the Board hereby nullifies decision 10. Decision 10's nullification necessitates the invalidation of decision 11.

As a result, Carlos Perea is the elected Grand Marshal for the 2006 term. In order to facilitate this transition, the Board is hereby declaring any and all appointments or nominations made by Zack Freeman to be null and void.

It was the determination of this Board that there are two issues of merit in relation to RNE's decision 10 and 11:

1. The burden of ballot responsibility and stewardship; be that voting student or RNE.
2. The application of voter intent in the determination of ballot significance; *id est* the validity of a ballot.

These two issues were paramount in the decision of this Board. The burden of ballot responsibility must lie with RNE but only so far as they are rationally capable of tracking and documenting what ballots in fact exist. RNE must make every effort to verify the existence of all ballots in their possession before issuance and upon receiving to ensure the proper stewardship of RNE's responsibility to the voters at Rensselaer.

The Board was particularly concerned with the inconsistencies in how the Rules and Elections Committee chose to take voter intent into account and when it chose not to. It is imperative that RNE maintain consistency as the body responsible for holding elections. RNE invalidated ballots with mistyped or incorrectly bubbled RIN numbers (among various other reasons), rendering them null votes that do not count towards the total vote *or the margin of error*. These nullified ballots include votes cast by students who intended their vote to be counted. In contrast, the missing ballots were treated as 6 students intending to cast a vote that could not be counted. In essence, an invalid ballot was treated as less important than a missing ballot. This constitutes a contradiction in policy that the Board cannot reconcile. Namely, RNE was concerned with voter-intent for lost ballots but not similarly concerned in the case of invalid ballots.

In order to address and resolve the problems asserted and witnessed in the 2006 elections in future elections and RNE decisions, the Board is issuing the following directives:

1. RNE must define procedures that assure the existence of all numerated ballots within their possession prior to an election.
2. RNE must define a working protocol for the administration of hand counts.
3. RNE must have clear criteria by which a ballot may be declared invalid.
4. Votes shall fall under one of two classifications, valid or invalid; with missing or lost ballots falling under the classification of invalid.
5. RNE must prepare and make available to any member of the Union a comprehensive report on all invalid ballots, including the serial number of the ballot and the reason for which it was invalidated.

This decision may be appealed by yourself or the Rules and Elections Committee within five business days. It should be noted that this decision, having implications reaching beyond the Rules and Elections Committee and yourself, may also be appealed by Zack Freeman and Carlos Perea, as they are directly affected by it. Any such appeal must be sent to the Senior Judicial Administrator, Travis Apgar, within five business days of this decision's issuance.

Vote: 6-0-0

Regards,

Emilio Perez
Judicial Board Chair
cc: Christopher Gearns