

IN THE SUPREME COURT

Action no. 14-002 )  
 )  
 WILLIAM PIONTEK )  
 Student Bar Association, Class of 2016 President )  
 Plaintiff )  
 )  
 v. )  
 )  
 LESLIE PUZO )  
 Student Bar Association President )  
 Defendants )  
 )  
 )  
 )  
 )

**MOTION  
FOR  
INJUNCTION**

**DONE THIS THE 14<sup>TH</sup> DAY OF APRIL, 2015**

**ALLEGATIONS OF GROUNDS FOR THE ORDER SOUGHT**

On April 6, 2015, candidate William Piontek filed a complaint to the University Of North Carolina School of Law Student Bar Association Elections Committee requesting a nullification of the votes for all seven winning candidates of the April 1, 2015 SBA general election, as well as their disqualification, alleging:

1. On March 31st, 2015 at 11:08 p.m., Dean of UNC Law, Jack Boger sent an email which made statements that were misleading, and/or presented incomplete truth, and/or disparaged candidates that were running in the April 1st SBA election.
2. Boger made misleading statements that presented a skewed account of the factual truth in his email sent to the Classes of 2016 and 2017; these statements inappropriately damaged the credibility, reputation, and legitimacy of the candidates who endorsed the “25 by 2025” initiative: Billy Piontek, Ashton Slagle, Carlton Price, Tom Shepard, Erin Ball, Matt Margiotta, and Stefan Parker Schropp.
3. Dean Boger stated that, "I am impelled to clarify that neither I as dean, nor Associate Deans Paul Rollins, Jeff Hirsch, and Kris Davidson, nor Assistant Deans John Kasprzak nor Sylvia Novinsky, have ever conferred with any SBA candidate on any '25 by '25' campaign, not even once." (emphasis supplied).
4. This statement (3) is untrue. On Thursday, March 19, 2015, candidate Billy Piontek met with Dean Boger at the monthly meeting of the Dean’s Advisory Council, on which Piontek represents the Class of 2016. At this meeting, Piontek discussed with Boger and the Council, of which at least five other student representatives were in attendance, the details of his “25 by 2025” initiative. Specifically, Piontek

explained how this initiative was the culmination of two years' worth of work that Piontek had accomplished with his running mates, most of which had been explicitly endorsed by Boger. The topic and substance of this meeting have subsequently been confirmed by the Council Chair, as well as Dean Boger, although Boger maintains that he recalls every detail except the title "25-in-10" (it was later changed to 25-by-25).

5. Dean Boger's e-mail improperly advocated against the platform of certain candidates, and in effect, disparaged them. Students at UNC Law have a great deal of respect for Dean Boger and trust him immensely. Any opinion he offers is given serious consideration and may have a serious impact on the mindset, opinion, and subsequent actions of the student body.
6. Statements within Dean Boger's email blurred the lines of truth. For example, Dean Boger wrote he does not "believe, candidly, that an approach centered on increasing our U.S. News rankings is a wise way to proceed. We very much want to build a stronger law school, but a focus on rankings does not seem consistent with North Carolina's motto, *Esse Quam Videre* ('to be rather than to seem') or our deepest values." This statement is inconsistent with numerous conversations that Boger has had with Piontek. For example, Piontek and many of his teammates met with Boger on September 8, 2014 and had a lengthy discussion about most of the elements of the "25 by 2025" initiative and how they could help raise rankings.
7. Whether consistent with the prior statements or views of the administration or not, no other candidates' platform underwent a similar substantive analysis and public approval or disapproval by the administration. The clear implication of Boger's use of "*Esse Quam Videre*" ('to be rather than to seem') is that the candidates' platform would result in only superficial benefits, if any. When combined with explicit statements indicating the apparent disapproval of the platform by the administration, Boger's email functioned as a powerful substantive critique of the platform—a process which no other slate of candidates suffered. It is patently unfair for the full power of the UNC Law administration—under the guise of expressing neutrality—to wholeheartedly endorse or reject a candidate's platform.
8. Consequently, in making at least three untruthful, misleading, or skewed statements in his email dated March 31, Boger communicated to the student body in no uncertain terms that Piontek was dishonest regarding multiple facets of the "25 by 2025" message circulated to the school. The damage that Boger's mistaken statements has caused is obvious. The Dean of the Law School was insinuating that statements made by candidates supporting the "25 by 2025" were false and considerably outrageous.
9. By telling students that Piontek was, in essence, deceiving them, Boger's email made it impossible for those students to vote the next day without being substantially biased. Therefore, it was impossible for the Elections Committee to hold "fair, open, and unbiased [elections] . . . held to the highest ethical standards of democratic electoral conduct for participants and election officials" as required by Art. IX § 11 of the SBA By-laws.

10. Dean Boger's email stated that he, and the rest of the administration, do not "believe, candidly, that an approach centered on increasing our U.S. News rankings is a wise way to proceed." It is clear that Boger was not merely "correcting the record" with regard to any perceived or actual misstatement as to his participation in the "25 by 2025" initiative, but in fact was attacking the merits of the program. Boger went even further when he stated that the initiative "does not seem consistent with North Carolina's motto, *Esse Quam Videre* ('to be rather than to seem') or our deepest values." It would seem that Dean Boger is suggesting that the candidates who advocated this "25 by 2025" are merely acting as if they care about the school but are actually self-interested and do not share the common deeply held values that the rest of the UNC Law community shares.
11. If the prejudicial effect of this were not immediately obvious, supporters of the opponents of "25 by 2025" candidates adopted the phrase *Esse Quam Videre* as a quasi-campaign slogan for the write-in candidates; this phrase was posted dozens of times on Facebook by the candidates themselves, and by others on the candidates' Facebook page.
12. The pervasive and forceful nature of Dean Boger's interference with the SBA Elections on March 31st, 2015 made it impossible to hold a "fair, open, and unbiased" election that "shall be held to the highest ethical standards of democratic electoral conduct for participants and election officials." Specifically, his email defamed Piontek et al, the uncontested election candidates, and as a result, endorsed the "write-in" candidates who had never announced any interest in being candidates until the morning of Boger's email. Moreover, these candidates explicitly utilized Boger's email as a campaign platform alleging that Piontek et al were dishonest.
13. Additionally, the campaign of Asante et al presented malicious charges against Piontek et al, and posted comments that were disparaging to Piontek et al in violation of Art. IX § 11.1–2 of the SBA By-laws.
14. The campaign slogan of Asante et al, Fresh and Honest, intended to suggest, and did in fact suggest that the nominated candidates, Piontek et al, were dishonest.
15. Compounding these false and malicious allegations, were comments disparaging Piontek et al that Asante et al supported on their campaign page.
16. Specifically, the campaign endorsed Dean Boger's email insinuating that Piontek et al had been dishonest, and further, used his exact language (*Esse Quam Videre*) as a the slogan of a campaign to disparage the other candidates.
17. Because all seven candidates—Nana Asante, Robert Sparks, Meghan Boyd, Tanisha Edwards, Rachel Morgan, Annie Kouba, and Jesse Ramos—created and managed this campaign, and its Facebook and print platforms, all seven candidates are equally responsible for any campaign violation under the SBA By-laws.
18. Additionally, because these candidates maintained control of the Facebook campaign page, any statements that were permitted to be posted on that page were the responsibility of Asante et al, and presumably endorsed by these candidates.
19. Therefore, regardless of the author, any false or malicious charges or disparaging comments that were posted to the campaign's platform would place all seven candidates in violation of Art. IX § 11.1–2.
20. Finally, on the day of the election, April 1, 2015, Asante et al launched a multi-pronged effort to provide false information regarding elections procedures.

Specifically, they printed hundreds of flyers and distributed them around the school, blanketing nearly every table in the hallways and Rotunda, and nearly every seat in every main classroom.

21. Critically, these instructions were not presented as campaign materials. Nowhere on the flyers or whiteboards was there any message of who distributed them or that they were intended to be persuasive. Lacking any authorship and presenting specific instructions as the only way a student could vote, the candidates hoped to be recognized as official “procedures,” which led the voter to only one choice: themselves.
22. This action violates Art. IX § 11.6 of the SBA By-laws, candidates shall not “[a]ttempt to perpetrate a fraudulent election. This shall include, but is not limited to, providing false information regarding filing or elections procedures . . .”
23. Any examination of the content on the “instructions” reveals that they are patently void of any indication that they are campaign materials and not instructions on elections procedures. The Asante candidate team attempted to deceive voters on the procedures for “How To Vote.” In doing so, they were in violation of Art. IX § 11.16 of the SBA By-laws.

On Thursday, April 9, 2015, Elections Committee Chair, John Harris denied all complaints. In the meantime, information has been continually gathered regarding the validity of Piontek’s allegations, including Boger’s admission that his email substantially effected the election.

On Monday, April 13, 2015, Piontek declared his intention to appeal the Committee’s decision.

#### **THE ORDER REQUESTED**

As the matter before this Court on appeal is critical to the outcome of the UNC Law SBA elections; the well-being of the school’s student body, and the individual rights of the candidates, this Motion requests that the Court issue an injunction of the following:

1. The transition ceremony and swearing in of the elected SBA Officers that Leslie Puzo plans to hold on Tuesday, April 14, 2015 at 12:00 p.m.
2. Any further recognition that the election results have been determined until this Court has the opportunity to hear Piontek’s appeal.

#### **JURISDICTION FOR ISSUANCE**

Title III, Art. IV § 631 provides the Supreme Court with the authority to issue injunctions. Further, § 631(B) states that “If, in the opinion of the Chief Justice, there is insufficient

time to convene the court in order to issue a temporary injunction, he/she may issue a temporary injunction in the name of the Supreme Court.”

The plaintiff respectfully requests the Court to consider issuing an injunction to prohibit the inauguration of the contested officers for these reasons:

1. The benefit gained otherwise is minimal: these seven individuals showed virtually no interest in SBA governance until 24 hours before the election. Accordingly, there cannot be an urgency with which they hope to initiate their prerogatives—presumably these candidates have none. Specifically, for example, the SBA President, Nana Asante, was recently sworn in as the Graduate and Professional School Federation Attorney General. A requisite of this appointment was the declaration of all other positions which a candidate would hold. This is critical because the Attorney General carries a great deal of responsibility which requires an enormous time commitment so that all graduate students can be fairly adjudicated within the Honor Court system. Asante failed to mention that she had any intention of running for SBA President (a position with comparable demands and responsibilities). Accordingly, she either misled the GPSF, or subsequently decided that she could manage both positions. In either case, her inauguration could create more harm than good to the graduate program: no reasonable professional would claim that one student could effectively fulfill both positions. Likewise, no other candidate on the elected team, other than Rachel Morgan, had previously indicated any interest in being SBA Officers until approximately 23 hours before the polls opened. Given their spontaneous and unexamined interest in the SBA, there is no benefit in inaugurating these candidates without further investigation of the facts and law alleged.
2. The cost suffered, on the other hand, by not enjoining this transition could be grave. Specifically, there is much evidence, including self-admission, that Dean Boger’s email drastically interfered with the election. Further, there is a significant argument that the information in his email misrepresented the truth. Finally, there is substantial merit to the claim that the “Fresh and Honest” team violated critical campaigning rules including disparagement, malice, and fraud. Under these circumstances it would be a grave error to permit their inauguration without a deeper examination of the facts and law. This is particularly true given that the seven candidates who stand to lose their positions have served the SBA for one to two years, and have been persistently recognized providing unprecedented service and change to UNC Law in their SBA capacities—as recently as April 13, 2015, by Dean Boger. To deny these committed leaders the opportunity for the Court to hear the merits of their case risks a great injustice and disservice to the Carolina Law community.
3. This Court hold “the Code gives the Court the authority to grant a temporary injunction when a motion has been filed that alleges extreme circumstances and necessity sufficient to warrant a temporary injunction, the Court will grant a temporary injunction provided the motion on its face alleges “extreme circumstances” and it is necessary for the Court to grant a temporary injunction.

4. Further, the Code gives the Court the authority to grant a temporary injunction when a motion has been filed that alleges extreme circumstances and necessity sufficient to warrant a temporary injunction, the Court will grant a temporary injunction provided the motion on its face alleges “extreme circumstances” and it is necessary for the Court to grant a temporary injunction.
5. Finally, because this motion alleges that (1) the elections were invalid; (2) the elected candidate violated campaigning rules; (3) the benefit of inauguration has limited, if any, merit under the circumstances; and (4) the damage caused by not enjoining the inauguration until the issues of fact and law can be resolved is potentially grave.

### **RELIEF SOUGHT**

Plaintiff respectfully requests that the Court enjoin the inauguration of any officer to the Student Bar Association Board of Governor’s Executive Committee or Class of 2016 Leadership until the issues of fact and law can be resolved by the Court upon appeal.

I do affirm that I have read in full the foregoing brief and that the allegations contained therein are true to the best of my knowledge and belief.

Billy Piontek

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Plaintiff

President, UNC Law SBA, Class of 2016

Filed this 14<sup>th</sup> day of April, 2015, at 2:30 a.m.