This matter comes before the University Elections Commission (“the Commission”) on the complaints of Petitioner, MAKE MICHIGAN, represented by Rick Stepanovic, against Respondent, TANNER PETCH, represented by Sarah Brenner. The complainant alleges that the Respondent violated CSG Compiled Code, Art VI, § B(7)(e)(iv)—the provision prohibiting “Inappropriate and Irresponsible Use of Email Privileges”. The violation is alleged to have occurred when on the morning of March 24th, Respondent Tanner Petch, THE TEAM candidate for the Penny Stamp School of Art and Design, authored and sent a campaign email to a listserv “Stamps Courtyard”. The issue before the Commission centers on the Complainants’ contention that Respondent was not the owner of the listserv and thereby violated the aforementioned code. Countering that position, the Respondent argues that the ownership of the listserv should be viewed in the context of the unique attributes of the group in question, thereby qualifying each addressee as an owner and failing to violate the intent of the section of the code which is to prevent election spam. The issue before the Commission is two fold: Is the Respondent the owner of the listserv and if not, does the Code and case law support their position that the relevant code section is intended to take into account mitigating circumstances which are that this particular listserv is a highly specific open forum that
does not fit within the intention of the Code. The explanation of the listserve as codified in Election Code

CSG Compiled Code, Art VI, § B(7)(e)(iv) states:

“send[ing] campaign emails to groups or email lists that the sender does not own, as defined by
‘mcommunity.umich.edu.’”

Plainly stated, to be considered an owner of a listserv at the University of Michigan, one must be specifically
be listed in the mcommunity ownership list. It is beyond dispute that Respondents are not listed in the
mcommunity ownership list for the Stamps Courtyard listserv. Therefore, this Commission finds that the
Respondents are not the owners of the said listserv.

The second issue is whether the mitigating circumstances, as supported by the evidence produced by the
Respondent, justifies crafting an exception to this particular section of the Code. The Respondents are asking
this Commission to find that given the uniqueness of this listserv in the commonality of its members and
status as an open forum, the Respondent’s campaign email cannot be considered to have violated the spirit or
letter of the Code section and thereby they are not in violation of the Election Code. After of the review of the
Code, relevant case law, and the evidence presented in this case, the Commission finds the Respondents’
position is neither supported by the law or the facts and thereby finds in favor of the Complainant.

I. Review of the Facts

The parties do not contest that on the morning of March 24th a candidate for the Penny Stamps School of
Art and Design sent an email to a list serve which he did not own. All 537 members of this listserv received
an email detailing the upcoming student election and requesting support. This is in clear violation of Election
Code VI, § B(7)(e)(iv). Furthermore, owners of a list serve are defined by mcommunity.umich.edu and
Respondant Mr. PETCH is not a listed member; thus, he is not an owner of said listserv.

While the Respondent argued that there are circumstances which allow this “Stamps Courtyard” listserv
to be considered ‘communal’ and ‘apart from other listserves’ of its kind, the facts remain that this
Commission has previously determined in Brenner v George that all listservs are bound by the Election Code.
See Brenner v. George, UEC-2015-W-002 (March 27, 2015). While the Respondent argued that this listserv
is considered an open forum (as stated in evidence submitted by the true owner [on behalf of the
Respondant]of the “Stamps Courtyard” list serve), that does not create an exception to the Election Code. It is
not within the power of this Commission to carve out that exception.
While the Election Code’s rules on list serves may be intended to ensure that candidates do not ‘spam’ other students, the evidence submitted argues that this particular list serve is used for open ideas, and that every member is considered a part owner. After the complaint was filed on behalf of the Complainant, the mcommunity page soon listed all 537 members of Stamps Courtyard as owners. Since there is no benefits to being an owner of a list serve other than avoiding violations in this case, by adding all members to the list serve, the Respondent wishes this to be added to the argument that this listserve is truly different from the rest. However, the Election Code clearly requires that a candidate be listed as the owner of the listserv on mcommunity before sending the email, and does not recognize post hoc changes in ownership.

II. Assessment of Demerits

This Commission finds Tanner Petch in violation of Election Code § B(7)(e)(iii) and therefore assigns him 537 violations in accordance with the number of recipients of his listserv email. However, this Commission orders that Tanner Petch be assigned one demerit for every violation he will receive in recognition of the mitigating circumstances surrounding the communal nature of the listserv and the fact that the evidence suggests that joint ownership was intended at the time the listserv was used by Mr. Petch (even if mcommunity did not reflect that intent at the time).

We therefore find the Respondent, THE TEAM, to be GUILTY of a violation of § B(7)(e)(iii) of the Election Code.

It is therefore ORDERED that one (1) demerit be assessed against Respondent THE TEAM for every violation (537) for every recipient of the email. Respondent PETCH’s demerits totaling more than five, he is no longer eligible for election.

Accordingly, it is FURTHER ORDERED that, pursuant to §(B)(6)(d) of the Election Code, Respondent, TANNER PETCH, be disqualified as a candidate for any and all CSG positions in the Winter 2015 CSG Election Cycle and that all votes cast for him are therefore to be considered NULL and VOID.

It is so ordered.