JEREMY KEENEY, Complainant

in his Capacity as Student General Counsel

v.

KAYLA GARTHUS, Respondent

Heard Before REESE, NICHOLS, FOX and LE, Commissioners.

FINAL OPINION

COMMISSIONER REESE delivers the unanimous opinion of the Commission.

This matter comes before the University Election Commission (“the Commission”) on the complaint of Petitioner, JEREMY KEENEY (“Keeney”), against Respondent, KAYLA GARTHUS (“Garthus”) for violations of Article VI of the CSG Compiled Code (“the Election Code”). Petitioner alleges that Respondent failed to attend a mandatory candidates’ meeting held on February 27, 2014 in violation of §B(7)(d)(iv) of the Election Code, which provides:

iv. Not Attending a Mandatory Candidates’ Meeting. Candidates wishing to be placed on the ballot and having submitted a complete candidacy application on time that fails to attend a mandatory candidates’ meeting shall be in violation of this rule. Candidates may not be found in violation of this rule more than once per election cycle.

CSG Complied Code, art. VI § (B)(7)(d)(iv). Petitioner’s complaint was filed with the Election Director on March 10, 2014. Respondent was advised of the complaint on the same day and given twenty-four hours time to file a response. Respondent filed his response on March 11, 2014. In accordance with the Election Code, a hearing on this matter was held on March 12, 2014. This matter is now ripe for decision.

The Election Code requires that, in order for a complaint to be sustained, Petitioner must prove each and every element of a violation beyond a reasonable doubt. CSG Compiled Code art. VI, § (C)(4). The Code does not provide a definition of this burden; however, it was not adopted in a vacuum. Rather it was adopted by the Assembly with full knowledge of the meaning of the phrase “beyond a reasonable doubt” in the American system of criminal justice. As the Supreme Court of the United States itself has said:
The reasonable-doubt standard plays a vital role in the American scheme of criminal procedure. It is a prime instrument for reducing the risk of convictions resting on factual error. The standard provides concrete substance for the presumption of innocence—that bedrock ‘axiomatic and elementary’ principle whose ‘enforcement lies at the foundation of the administration of our criminal law.’

_In re Winship_, 397 U.S. 358, 363 (1970) (citing _Coffin v. United States_, 156 U.S. 432, 453 (1895)). The Commission concludes that the framers of the Compiled Code intended to invoke this principle when they used the phrase “beyond a reasonable doubt.”

Of course, courts have long struggled to define precisely what level of certainty renders a fact proved beyond a reasonable doubt. Once again, we can look to the Supreme Court for guidance. In _Hopt v. Utah_, 120 U.S. 430, 439 (1887), the Court upheld the following instruction to the jury and praised it for adding additional clarity to the concept:

[I]f, after such impartial comparison and consideration of all the evidence, you can truthfully say that you have an abiding conviction of the defendant’s guilt, such as you would be willing to act upon in the more weighty and important matters relating to your own affairs, you have no reasonable doubt.

This instruction seems, to us, a suitable explanation of the standard against which we must weigh the evidence before us today. It strikes an important balance between the right of the respondent to a presumption of innocence and the practical necessity of setting a burden that is not so great that proof is impossible for a petitioner in a student government setting in a way that alternative formulations do not.

We therefore HOLD that the phrase “beyond a reasonable doubt” as set forth in the Election Code means that, in a case before the UEC, a petitioner bears the burden of producing evidence sufficient to evoke in a majority of the commissioners an abiding conviction of the respondent’s guilt, such as they would be willing to act upon it in the most significant of their own affairs.

II

With that standard clearly in mind, we now recite such facts as are uncontested between the parties:

1. Respondent is a candidate in the upcoming election, having properly filed all required election forms.
2. A required candidate’s meeting was held on February 27, 2014 at 9:00pm.
3. Notice of said meeting was circulated via email at least one week prior to the meeting and placed upon the UEC’s website. All applications for candidacy distributed to potential candidates listed the date, time and place of the meeting. Those materials also indicated that sanctions could be imposed upon any candidate failing to appear.
4. A sign-in sheet was circulated at the meeting.

5. Respondent was aware, prior to the time the meeting occurred, that there was a meeting and that she was required to attend.

6. During this election cycle, Respondent has not previously been found in violation of §(B)(7)(d)(iv.) of the Election Code.

III

The sole issue before the Commission is whether or not Respondent attended the aforementioned meeting. Petitioner Keeney asserts that she did not, relying upon the sign-in sheet circulated at the meeting. Respondent asserts that the sign-in sheet does show she was present, but that Petitioner has misunderstood it due to the ambiguous location of the checkmarks by which she indicated her presence. She has further produced the written statements of three fellow candidates attesting to her presence at the meeting. In the view of the Commission, the sign-in sheet adduced at hearing is, at best, ambiguous as to Respondent’s non-attendance. When coupled with the statements produced by the Respondent, this leads us to conclude that she most likely did attend the meeting, but was rushed by the hectic nature of the sign-in process and did not as clearly indicate her attendance as she might have absent that confusion. Accordingly, we FIND that the Petitioner has failed to show, beyond a reasonable doubt, that Respondent violated the Election Code. As a result, we need not consider the assessment of demerits.

We therefore find the Respondent, KAYLA GARTHUS, NOT GUILTY of a violation of §(B)(7)(d)(iv.) of the Election Code and Petitioner’s complaint is DISMISSED. As a result, neither demerits nor any reduction of weighted votes shall be assessed against Respondent.