

# ASUC Judicial Council

## Direct Judgment

### Ratto v. Vakil

On this date, the Seventh of June, Two Thousand and Six

By Assistant Chair Sonya Banerjee, with whom  
Senior Associate Justice Amaris White, and  
Associate Justices Stephanie Lam and Carmel Levitan join

In the case at hand, the Judicial Council is asked to consider charges brought forth by Mr. Andy Ratto against Mr. Suken Vakil for his actions as the defense representative in the previous trial of ASUC v. Student Action Executive Slate.<sup>1</sup> The plaintiff, Andy Ratto, alleges that Suken Vakil, although the designated spokesperson for the defense, knowingly provided untruthful witness testimony when questioned on matters of fact by the Judicial Council. Ratto claims that if Vakil lied at the hearing, that he then violated Title IV of the By-Laws, Section 13.3.1.<sup>2</sup> Additionally, Article 4 Section 12.3.1 of the Judicial Rules of Procedure mandates that if a witness is found to have committed “perjury,” defined in the Judicial Rules of Procedure as violating the rules for truthfulness,<sup>3</sup> the witness is to be held in contempt of Council.<sup>4</sup> And, as per the Judicial Rules of Procedure Article 4 Section 15.3.2,<sup>5</sup> a default judgment is then to be issued against the party that would benefit from the witness’s dishonest testimony. Former Student Action Party Chair, Bret Manley, represented the defendant at this hearing, as Mr. Vakil left the country shortly after the charges were filed.

Here it is important to note that Suken Vakil was compelled to provide an affidavit in lieu of his absence from the hearing, so he could speak on his own behalf as the defendant.<sup>6</sup> However, after

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<sup>1</sup> Judicial Council decision of ASUC v. Student Action Executive Slate: “In the case at hand the Judicial Council is asked to consider six counts of violation on the part of the Student Action Executive Slate - Oren Gabriel, Vishal Gupta, Joyce Liu, and Jason Chu. The plaintiff, Attorney General Nathan Royer alleges that each candidate violated Title IV of the By-Laws Article 13.3.8 on six separate occasions: ‘Knowingly and actively campaigning within 100 feet of the polls, provided that the polls are properly marked off.’ Because the contested chalkings contain the entire Student Action slate and the charges pertain equally to these candidates, the cases were joined to be heard together. The Student Action Party Chair, Suken Vakil, represented the joined defendants before the Judicial Council...”

<sup>2</sup> “Willfully violating a lawful order from the ASUC Judicial Council or Elections Council.”

<sup>3</sup> Judicial Rules of Procedure Article 4 Section 12.3: “Witnesses must, to the best of their ability, provide the Council with relevant and truthful testimony.”

Judicial Rules of Procedure Article 4 Section 15.1: “All participants in a Judicial Council hearing shall truthfully, accurately, and concisely answer any question addressed to them.”

<sup>4</sup> “Witnesses who knowingly provide untruthful testimony may be found to have committed perjury, and declared in contempt of Council. The Council may issue such a finding at any time.”

<sup>5</sup> “Individuals found in contempt may be asked to leave the proceedings, may be forcibly removed from proceedings, may be disallowed from appearing again before the Council, and a default judgment issued against the party the participant sought to benefit.”

<sup>6</sup> ASUC Constitution, Article XI Section 3 (Rights of the Accused): “The accused shall enjoy the right to a speedy and public trial, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him/her; to have the opportunity to present witnesses; and to have the Assistance of Counsel for his/her defense.”  
Title IV Article 14 Section 3: “The imposition of sanctions for contempt of court for violations of campaign rules shall

an objection to the affidavit from the defense, and much consideration by the Judicial Council, we have decided to suppress the affidavit provided by Vakil on the basis of the clause within Article XI Section 3 (Rights of the Accused) of the ASUC Constitution, which states, “No person... shall be compelled in any case to be a witness against him or herself.” The Judicial Council finds that this affidavit predominantly forces Vakil to “be a witness against” himself. Therefore, in accordance with the Bill of Rights, Suken Vakil’s affidavit is hereby officially stricken from the record and no part of the affidavit is considered in the formation of this judgment.

Before considering a breach of the witness rule for truthfulness, the Judicial Council must first consider whether Vakil did in fact serve the role of “witness” at the hearing in question. Article 4 Section 12.1 of the Judicial Rules of Procedure explicitly defines a “witness” as “any individual other than a spokesperson who provides testimony before the Council in a hearing.” From this clause, it seems that there are only two capacities in which a person can appear before the Council: as a witness or as a spokesperson (the audience consists of non-participants so are not included). It also seems that if one serves as a witness in a hearing then that person is not precluded from also being a spokesperson, and vice versa. Moreover, by examining the definition of “witness” in conjunction with the definition of “spokesperson,” as they are outlined within the Judicial Rules of Procedure (JRP), it is clear that the functions of a spokesperson and the functions of a witness in a hearing are fundamentally different. The Judicial Rules of Procedure delineate the role of the spokesperson in Article 4 Section 7.2 where it states: “recognized spokespersons may address the Council during oral arguments to make arguments, present evidence, examine witnesses, and raise objections.” Therefore, the fundamental difference between a spokesperson and a witness is that the witness provides testimony, whereas the spokesperson elicits testimony from a witness and provides no testimony of his/her own. Because Vakil did not call any witnesses to testify on behalf of the four Student Action executive candidates, the Council was then forced to direct questions on matters of fact to the defense representative. When Vakil answered these questions he thereby testified to matters of fact, such as how long chalk persists on the ground after it has been placed and the Party’s reasons for campaign chalking, and took on the role of a witness in addition to his role as spokesperson. This is further corroborated by the fact that after the Judicial Council asked Vakil questions on matters of fact, the opposing counsel, Attorney General Nathan Royer, was allowed to ask him follow-up questions to his responses, thereby effectively engaging in cross examination of a witness. Thus, the Judicial Council has determined that Vakil served as both a witness and a spokesperson at the hearing *ASUC v. Student Action Executive Slate*.

Next, the Council must examine the arguments, evidence, and witness testimony presented in order to determine whether Vakil knowingly provided untruthful witness testimony during *ASUC v. Student Action Executive Slate*. Mr. Ratto submits as evidence the *Daily Californian* article from May 11, 2006 that summarizes the hearing of *ASUC v. Student Action Executive Slate*, which the reporter, Katlyn Carter, attended. This article states that at the hearing “Vakil added that in his experience, chalk disappears after one day.” Although this is a paraphrase of a response Vakil offered when questioned by the Judicial Council, it is uncontested by both parties that Vakil claimed the lifetime of chalk to be one day. Moreover, when asked about the accuracy of the *Daily Californian* article, witness Justin Azadivar, who was taking notes at the *ASUC v. Student Action Executive Slate* hearing, made no objection to its account of the statements made at the hearing. Finally, because Vakil’s response stated a fact about his experience, it is clear that the statement “chalk disappears after one day” was not part of his argument but instead was witness testimony. This is affirmed by the fact that Vakil’s brief for that hearing makes no mention about the longevity of chalk, and therefore such

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be imposed by the Judicial Council after a hearing at which the offending party appears and is heard.”

a statement was not offered as part of his arguments.

Furthermore, Manley told the Council that Vakil had been a member of Student Action for three years, the first year as a Senate candidate who campaigned for himself, the second year as a member who came to meetings when he could, and his third year as a Party Chair. Clearly, Vakil has had extensive experience with and exposure to campaigning. Joyce Liou, one of the Student Action executive slate candidates, stated that as Party Chair, Vakil was regularly at meetings and that his absence at such meetings was anomalous. From these statements, it is reasonable to infer that Vakil was an active and knowledgeable participant in Student Action and its campaign practices, specifically its chalking tactics.

Regarding the chalking methods employed by Student Action, witness Katie Robinson (Spring 2006 Student Action Senate candidate) states in her affidavit that Vakil and Manley both reminded contributors to “chalk the slate,” meaning that people engaging in chalking for any candidate were encouraged to always write the names of the four Student Action executive candidates. This is further corroborated by the decision of ASUC v. Student Action Executive Slate, which states that “the contested chalkings contain the entire Student Action slate,” a conclusion derived from the photographic evidence presented at that hearing. Witness Igor Tregub (Student Action Senate candidate in Spring 2004 and Spring 2005) states in his affidavit that when he chalked, “it was mandatory that I chalk the names of the executive candidates” and that “there were, however, reprisals for those candidates who made the mistake of not chalking the names of the executive slate as often as the members of the slate preferred, even if they rectified this in future chalking.” From this testimony, it is reasonable to infer that the Student Action executive slate candidates knew that their names would be frequently chalked, and not just by individuals chalking directly for a particular candidate.

Witness testimony throughout the hearing indicates that people chalking on behalf of Student Action frequently employ methods to prolong the time that chalk remains on the ground, such as smudging the chalk into the ground and spraying hairspray over the chalk once on the ground. The affidavits of Katie Robinson (Spring 2006 Student Action Senate candidate), Igor Tregub (Student Action Senate candidate in Spring 2004 and Spring 2005), Josh May (who chalked in Spring 2006 on behalf of a Student Action executive candidate), and Keith Petchsrisom (who chalked in Spring 2006 on behalf of a Student Action executive candidate) all attest to the fact that they smudged in their chalk to make it last as long as possible on the ground. Moreover, at the hearing, witnesses Ed Martinez (Student Action member in 2003 and 2004) and Emilie Saleh (Spring 2005 Student Action Senate candidate and Spring 2006 Student Action Finance Chair) said that they rubbed the chalk in to last longer. Emilie Saleh also testifies that she learned about the use of hairspray as a method that would make chalk last longer at a Spring 2005 Student Action retreat, and Jason Dixson (2005-2006 ASUC Executive and Student Action member) states that Vakil was present at that retreat.

Furthermore, Mr. Ratto submits as evidence a picture of a hairspray bottle that had been posted online by witness Keith Petchsrisom, who chalked on behalf of Student Action executive slate candidate Jason Chu. This picture has the caption, “Upon further inspection, the hairspray purchased from Bear Market for chalking is the product of the one and only Jason,” which supports the claim that some Student Action campaigners employ methods to prolong the time that chalk remains on the ground. In response, Manley argues that because no receipts for the purchase of hairspray have ever been filed, it shows that people chalking on behalf of Student Action do not use hairspray to make their chalk last longer.<sup>7</sup> However, witness Keith Petchsrisom states, “I purchased

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<sup>7</sup> ASUC By-Law, Title IV, and Article 19 Section 2: “It shall be the responsibility of the candidate and/or their parties

the hairspray with my points at the Unit 3 Bear Market for the purpose of using it while chalking,” and that he never knew to submit the receipt. Witness Josh May, who also chalked on behalf of Jason Chu, states that the hairspray he used was “borrowed from a floormate.” Therefore, it is clear that the fact that no receipts for hairspray were filed does not mean that people chalking on behalf of Student Action do not use hairspray as a method to make their chalking last longer. Moreover, when asked how he knew to use hairspray to keep the chalk on the ground, witness Josh May stated that “we had heard from Alan Lightfeldt, the campaign manager that it was useful,” which suggests that the use of hairspray, to make chalk remain on the ground for as long as possible, is a well-known and communicated chalking tactic within Student Action.

Witness testimony during the hearing indicates that the actual Executive and Senate candidates, as well as other non-candidate members of Student Action, themselves were aware of chalking practices that would make the chalk last longer on the ground even if they had never employed such tactics themselves. Manley states that at the Student Action retreat, held on March 18<sup>th</sup> and 19<sup>th</sup> of 2006, he “announced, should you use hairspray you need to bring that to our attention so we can file that receipt” and that no one brought up questions as to why hairspray would be used, which shows that the use of hairspray while chalking was a commonly and widely known tactic. When asked whether it would be possible to assume that Vakil knew about the use of hairspray based on the fact that Manley announced his request to collect receipts for it, Manley admitted that it is possible that Vakil could have heard about the use of hairspray from him. Moreover, “rub chalk in w/fingers” and “hair spray” are notes written on a Student Action manual from that March 18<sup>th</sup> and 19<sup>th</sup> retreat, provided by witness Katie Robinson and submitted into evidence by the plaintiff. Robinson provides a statement with the document that explains that she has not altered that document since that weekend, and that the notes were taken during meetings where both Vakil and Manley held leadership roles. She further states that although she could not remember who made the statements about hairspray and rubbing in the chalk, that “numerous (3 or 4) other Student Action leaders chimed in agreeing that those were good strategies and should be done based on their own positive experiences from using those chalking methods.” Also, in Robinson’s affidavit she explains that Vakil was one of the individuals she reported to in Student Action during her campaign. She further states that she smudged her chalk into the ground because “it was suggested” to her by Vakil among other individuals, and that Vakil was also one of the individuals within Student Action that suggested that she use hairspray on her chalking. When asked whether Vakil ever told her why she should use hairspray, Robinson states that Vakil explained that hairspray “seals the chalk onto the ground so that rain and walking on it won’t make it fade.”

As a result of the testimony and evidence presented at the *Ratto v. Vakil* hearing, it is reasonable to infer that Vakil, after having been involved with Student Action for three years, first as a candidate, then as a member, and finally as Party Chair, would have known that people chalking on behalf of Student Action candidates often use tactics that make the chalk last for an extended period of time. Moreover, the testimony from Katie Robinson further offers proof that Vakil knew of the use of hairspray and smudging to make chalk last for a prolonged period of time. As a result, the presented evidence and testimony provides clear and convincing support of the allegation that Vakil knew about the use of hairspray and smudging on chalk at the time of *ASUC v. Student Action Executive Slate* hearing.<sup>8</sup>

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which act in coordination with the candidate to provide two copies of all campaign material to the Elections Council and a receipt for the purchase of said material within twenty-four (24) hours. If unable to provide a receipt, they may indicate so and instead provide an estimate of fair market value. Receipts must be provided beginning with the Candidates' Meeting and thereafter.”

<sup>8</sup> Judicial Rules of Procedure Article 5 Section 1.2.1: “The factual allegation(s) are supported by clear and convincing

Additionally, witness testimony shows that campaign chalking generally lasts longer than one day. Witness Justin Azadivar, in his affidavit, states, “As a result of Vakil’s claims at the hearing, I had been deliberately watching the campaign chalk to see how long it lasted this year” and says that as of May 19<sup>th</sup> the chalking had been on the ground for 25 days, as voting for this election began on April 25<sup>th</sup>. Azadivar also states that he has actively watched four elections as a result of his blog postings, which started in May 2002. Azadivar further attests, “I have specifically noticed Student Action chalking each of the past four years, because as a major party, they were an obvious target for blog posts. Every year the chalking is ‘well-done,’ in the sense that it persists until rubbed out by heavy walking in certain areas (which are the same from year to year, except for when traffic is diverted by on-campus construction), or by rain... Since the same thing occurs every year, I say it is ‘not variable.’” Additionally, witness Igor Tregub (Student Action Senate candidate in Spring 2004 and Spring 2005) states in his affidavit, “the shortest amount of time that my chalk has lasted before it needed to be retouched was about 72 hours.” He further explains that in his experience, his chalking generally only lasted for a week because he did not spend “too much time” on each of his own chalking endeavors, although he states that chalking would last “2-3 weeks for more perfectionist candidates than” himself. This testimony shows that it is not unusual for Student Action chalking to persist on the ground for extended periods of time – periods of time that are certainly longer than one day. Moreover, witness Jessica Wren, the Elections Council Chair, states that she visited the polling locations during all three days of voting this year and that she specifically noted visible Student Action chalking near the polling stations on all three days. It is reasonable to infer that Mr. Vakil would have similar knowledge as a result of his three-year experience with Student Action campaigns, especially given his likely awareness of party tactics used to prolong the lifetime of chalk.

Therefore, when Vakil answered questions of fact, knowing that Student Action used tactics to prolong the time that chalking remained on the ground, and that in previous election seasons Student Action chalking had persisted well beyond the course of one day, he was deliberately attempting to mislead the Judicial Council by testifying that chalk disappears after one day. Here we must examine the extent of “misleading.” When Vakil offered witness testimony to the Council that he knew to be misleading, or guiding towards a false impression of reality, he was knowingly providing untruthful testimony. Hence, Mr. Vakil should be found guilty of “perjury” and held in contempt of Council for the ASUC v. Student Action Executive Slate hearing.<sup>9</sup> The fact that Vakil was not subject to an oath prior to testifying does not mean that Vakil was therefore absolved from his obligation to tell the truth. The Judicial Rules of Procedure, in Article 4 Section 15.1, requires that “all participants in a Judicial Council hearing shall truthfully, accurately, and concisely answer any question addressed to them,” a rule for truthfulness that Vakil violated. In particular, “witnesses must, to the best of their ability, provide the Council with relevant and truthful testimony.”<sup>10</sup> Moreover, the Judicial Rules of Procedure, the document that governs the “rules and procedures for the exercise of [the Judicial Council’s] responsibilities,”<sup>11</sup> does not direct that litigants or witnesses

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evidence.”

<sup>9</sup> Judicial Rules of Procedure Article 4 Section 12.3.1: “Witnesses who knowingly provide untruthful testimony may be found to have committed perjury, and declared in contempt of Council. The Council may issue such a finding at any time.”

<sup>10</sup> Judicial Rules of Procedure Article 4 Section 12.3

<sup>11</sup> ASUC Constitution, Article IV, Section 3: “The Judicial Council shall frame, approve, and revise, during well-advertised open hearings, rules and procedures for the exercise of its responsibilities. Changes in rules of procedure shall be forwarded to the Senate. Proposed rules shall not be open to amendment by the Senate, except for deletion of individual clauses. Should the Senate fail to reject, by majority vote of the entire Senate, changes within three (3) regular meetings after their receipt by the Senate, the rules will be automatically approved.”

be sworn in. Because of this fact, the Council's definition of "perjury" differs from that of traditional court systems, but the Judicial Rules of Procedure mandate the same standard of truthfulness.

Because the Judicial Council has found that Mr. Vakil is guilty of "perjury" and has been held in contempt, we must now consider the appropriate remedy. The sanctions for an individual found in contempt are described in JRP Article 4 Section 15.3.2 which states: "Individuals found in contempt may be asked to leave the proceedings, may be forcibly removed from proceedings, may be disallowed from appearing again before the Council, and a default judgment issued against the party the participant sought to benefit." If the situation should arise that Mr. Vakil would again appear before the Council, the Council has the right to decide at that time whether he will be recognized. Next we must consider issuance of the default judgment against the Student Action executive candidates, the parties that Vakil sought to benefit through "perjury." The fact that Vakil's misleading statements potentially influenced the judgment of ASUC v. Student Action Executive Slate, as seen in the Dissenting Opinion by former Chair Robert D. Gregg and Associate Justice Aurora Masum-Javed where the "activeness" of the chalk is questioned, shows that Vakil's clients did benefit. Vakil's impact on the decision of ASUC v. Student Action Executive Slate can also be seen in the primary text of the direct judgment, where it states "Mr. Vakil argues that the act of applying chalk is campaigning, but once this action ceases, the fact that the chalk remains on the ground, for only a short period of time he claims, does not qualify as campaigning." This argument was clearly taken into account by Assistant Chair Sonya Banerjee, Associate Justice Kate Feng and former Associate Justice Alexander Olsson in their Dissent in Part, as their breakdown of the allocation of censures depends on the intent of actions. If chalking only lasts for one day, then there is no way that Student Action could have pre-meditated their chalking to be within the poll station boundaries. Knowledge that chalking lasts longer than one day allows for the possibility that Student Action intentionally chalked excessively at known poll station locations<sup>12</sup> prior to official demarcation, because they knew their chalking would last for a prolonged period of time due to the implementation of tactics for that purpose. If "intent" was questionable during deliberations for the appropriate remedy of ASUC v. Student Action Executive Slate, it is possible that two censures would have been issued for the three established violations of Title IV Section 13.3.8, rather than the one censure issuance that kept the Student Action executive candidates below the five-censure disqualification limit.

Also, it is important to further examine how the four Student Action executive candidates should be dually held accountable for Vakil's malfeasance in the hearing of ASUC v. Student Action Executive Slate. All four of the Student Action executive candidates were present at the hearing in question and earlier signed documents pledging their responsibility for the Election By-Laws<sup>13</sup>, in particular for Title IV Article 13 Section 10, which states: "The Judicial Council shall be vested with the authority to hear and decide allegations of violations of this Article XIII, pursuant to its rules and regulations as set forth in ASUC Bylaws." Therefore, these candidates should have been aware that at a Judicial Council hearing for campaign violation charges, the hearing is governed according to "its rules," which are the Judicial Rules of Procedure. It was the responsibility of these candidates to familiarize themselves with the Election By-Laws and Judicial Rules of Procedure prior to the hearing. These candidates should then have been aware of the clause within the Judicial Rules of

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<sup>12</sup> ASUC By-Laws Article 3 Section 2 "Poll Locations," which outlines the places that polling stations will be established. ASUC By-Laws Article 3 Section 6 "The locations of the polls shall be well-publicized before and during the election." ASUC By-Laws Article 7 Section 4: "A statement signed by the candidate that he/she is responsible for all information contained in the Election by-laws and the information that will be presented at the Candidate's Meeting."

<sup>13</sup> ASUC By-Laws Article 7 Section 4: "A statement signed by the candidate that he/she is responsible for all information contained in the Election by-laws and the information that will be presented at the Candidate's Meeting."

Procedure that states, “All participants in a Judicial Council hearing shall truthfully, accurately, and concisely answer any question addressed to them,”<sup>14</sup> and the clause which states that “witnesses must, to the best of their ability, provide the Council with relevant and truthful testimony.”<sup>15</sup> These individuals should have been aware of the consequences of untruthful testimony as per Article 4 Section 3.12.1 which states: “Witnesses who knowingly provide untruthful testimony may be found to have committed perjury, and declared in contempt of Council. The Council may issue such a finding at any time.” These individuals should also have been aware that a participant may be declared in contempt of Council during or after the hearing for “knowingly providing false or misleading testimony before the Council.”<sup>16</sup> Furthermore, Oren Gabriel and Vishal Gupta, two of the four Student Action executive candidates, served as ASUC Senators during the 2005-2006 academic year and are members of Student Action. At the time of the ASUC v. Student Action Executive Slate hearing, both of these individuals had completed their second campaigns as members of Student Action, and it is reasonable to infer that they would be familiar with campaign practices, specifically with chalking practices that candidates frequently employ. Additionally, although Student Action executive candidate Joyce Liou testifies that she only personally engaged in chalking twice, she states that she was aware of the use of hairspray on chalk and the use of smudging in chalk to make it last longer. And, Keith Petchrisom and Josh May, who both chalked on behalf of Student Action executive candidate Jason Chu, used hairspray and smudging to make their chalking on behalf of Chu last longer, techniques Keith testified were suggested to them by Chu’s campaign Manager, Alan Lightfelt. So, it can be reasonably inferred that, as Jason Chu would have been held responsible for the actions of his “agents” had they committed a campaign violation as outlined in Title IV Article 13 Section 3 of the ASUC By-Laws,<sup>17</sup> he would be familiar with the chalking tactics such as smudging and the use of hairspray. According to the statement provided by Katie Robinson (which was included with the evidence she submitted), all four Student Action executive candidates were present at the Student Action Party retreat held on March 18<sup>th</sup> and 19<sup>th</sup> 2006, where chalking tactics were discussed. At this retreat, Manley announced his request for the collection of hairspray receipts, and several other Student Action leaders discussed hairspray as a method to make chalking last longer.

Therefore, it can be reasonably inferred that all four Student Action executive candidates were familiar with the use of smudging and hairspray to prolong the time that chalk remains on the ground. It is also reasonable to infer that the defendants of ASUC v. Student Action Executive Slate would be somewhat familiar, if not well-versed, with the strategy that Vakil was going to use to defend them at the hearing. These four individuals were not only present at the hearing of ASUC v. Student Action Executive Slate, but they allowed Vakil to mislead the Council on their behalf without making any attempt to stop him. Throughout the proceedings of the ASUC v. Student Action Executive Slate, not one of the four individuals that Vakil represented made any attempt to correct Vakil’s testimony, either by speaking with Vakil themselves, or by alerting the Judicial Council to Vakil’s violation of a rule for truthfulness.

Moreover, it is legally justified that the candidates be held responsible for the actions taken by their designated representative, or agent acting on their behalf. Article 13 Section 8 of Title IV of the ASUC By-laws states, “A candidate, but not his/her party, shall be considered guilty of a violation of the Campaign Rules by an agent of that candidate acting within the scope of his/her

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<sup>14</sup> Judicial Rules of Procedure Article 4 Section 15.1

<sup>15</sup> Judicial Rules of Procedure Article 4 Section 12.3

<sup>16</sup> Judicial Rules of Procedure Article 4 Section 15.3.1.6

<sup>17</sup> ASUC By-Law Title IV Article 13 Section 8: “A candidate, but not his/her party, shall be considered guilty of a violation of the Campaign Rules by an agent of that candidate acting within the scope of his/her delegated authority.”

delegated authority.” The “Campaign Rules” that are mentioned in this clause refer to Title IV of the ASUC By-Laws,<sup>18</sup> specifically Article 13: Campaign Rules. This means that if the agent of the candidate commits a violation of the Campaign By-Laws, then the candidate is held responsible for the agent’s actions. It is therefore reasonable to infer that the candidates instructed all “agents” acting on their behalf to be familiar with Title IV, Article 13 of the ASUC By-Laws. As a result, it would seem that Mr. Vakil would have familiarized himself with Title IV, Article 13 of the ASUC By-Laws, not only because he was acting within the scope of his delegated authority as the spokesperson in a case involving a violation of the Title IV Campaign Rules, but also because as the designated representative, or “agent,” for the four Student Action executive candidates he should be held to the same standard of familiarity with Title IV as the candidates themselves were.<sup>19</sup> Because of this and the fact that Vakil was to appear before the Judicial Council, he should have known that the hearing would be governed by the Judicial Rules of Procedure per Article 13 Section 10 of Title IV.<sup>20</sup> Vakil then should have been familiar with the clause contained in Article 4 Section 12.3 which states that, “Witnesses must, to the best of their ability, provide the Council with relevant and truthful testimony.” Therefore, because Vakil knowingly provided misleading testimony to the Judicial Council, the candidates that designated Vakil to be their representative (or agent) shall be considered dually guilty of violating the rules for truthfulness, which is punishable by a ruling of contempt of Council and the remedies that follow therein.

Furthermore, during this trial of Ratto v. Vakil, witnesses Emilie Saleh, Joyce Liou, Jason Dixon, and Bret Manley repeatedly gave evasive answers, often verbatim repeats of answers that the previously questioned witness had given, to the plaintiff and the Council when asked questions about Vakil. Student Action members also attempted to interfere with witness testimony by whispering to each other when directed to answer controversial questions; the witnesses had not requested legal counsel. The events of both hearings point to an organized effort on the part of Student Action to conceal the truth and obstruct the judicial process, which directly threatens the democratic institution of the Associated Students of the University of California. The defense argues that these elected candidates represent the will of the students, but it is surely not the will of the students to be deceived during public hearings. The Judicial Council unanimously feels that, given the clear and convincing nature of the evidence presented,<sup>21</sup> the severity of the violation, and the consequence mandated in the Judicial Rules of Procedure, a default judgment must be issued.

According to JRP Article 4 Section 15.3.1, the Judicial Council “may declare, either during or after a Council hearing, a participant to be held in contempt of Council,” which then mandates a default judgment after the hearing. As a result, the Judicial Council may impose additional remedies to its previous decisions through directly related contempt of Council rulings. Finally, Title IV Article 14 Section 3 states, “The imposition of sanctions for contempt of court for violations of campaign rules shall be imposed by the Judicial Council after a hearing at which the offending party appears and is heard.” As Ratto argued this case with the exact purpose of issuing sanctions for contempt of Council due to violation of the rules for truthfulness, and Vakil had the right to counsel and an affidavit (waived by counsel) in his absence, this hearing satisfies the requirement.

We therefore issue a default judgment which takes the place of the original decision for

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<sup>18</sup> ASUC By-Laws Article 1 Section 1: “These by-laws provide for the conduct of all ASUC Elections.”

<sup>19</sup> ASUC By-Laws Article 7 Section 4: “A statement signed by the candidate that he/she is responsible for all information contained in the Election by-laws and the information that will be presented at the Candidate’s Meeting.”

<sup>20</sup> “The Judicial Council shall be vested with the authority to hear and decide allegations of violations of this Article XIII, pursuant to its rules and regulations as set forth in ASUC Bylaws.”

<sup>21</sup> Judicial Rules of Procedure Article 5 Section 1.2.1: “The factual allegation(s) are supported by clear and convincing evidence.”

ASUC v. Student Action Executive Slate, and thus the remedy is the plaintiff's originally requested penalty. This request is outlined in Attorney General Nathan Royer's brief: "The ASUC is seeking the maximum number of censures (3) on each count against the accused candidates. Given that even a minimum of one censure on each count would result in six censures per candidate, the ASUC is also seeking the disqualification of these candidates." The Judicial Council hereby issues three censures for each of the six counts of violation brought against the defendants (Title IV, Section 13.3.8 of the ASUC By-Laws), resulting in a total of 18 censures for each of the Student Action executive candidates: Oren Gabriel, Vishal Gupta, Joyce Liou, and Jason Chu. Furthermore, Title IV Article 13 Section 10.2 states: "Punishment for violation of this Article XIII shall be in the form of disqualification and censure, which may be from one to five, for the conduct at issue. Five censures in any one election shall require disqualification from participation in that election on the part of the offending party. All candidates were warned of the consequences of these censures at the candidate's meeting..." The Judicial Council has the authority to issue both censures and disqualifications, and because each candidate has at least five censures, they are automatically disqualified from the 2006 ASUC Elections.

As the outcome of the default judgment makes Mr. Ratto's additional requested remedies irrelevant, the merit of his charges regarding new campaign violations is not considered in this decision. Pending the conclusion of appeals,<sup>22</sup> the Elections Council should be prepared to re-tabulate the votes for the four executive positions so as not to disenfranchise any voters, specifically by counting the second place selections made by those voters who had given their first place votes to the Student Action executive candidates.

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<sup>22</sup> Judicial Rules of Procedure Article 5 Section 4.1 "When appealing, the burden of proof rests on the petitioner.

Appeals may be granted for any of the following:

1. Demonstration that a reversible error with regard to a conclusion of law may exist.
2. Demonstration that judgment was significantly influenced by a violation of due process, as set forth in these rules of procedure."